

THE
Baseball Research
JOURNAL

Volume 38
Fall 2009
Number 2



THE BASEBALL RESEARCH JOURNAL
Volume 38, Number 2, Fall 2009

Editor: Nicholas Frankovich

Production and Design Coordinator: Lisa Hochstein

Cover Designer: Lisa Hochstein

Fact Checker: Scott Flatow

Proofreaders: Aldene Fredenburg, Norman L. Macht

Photo Consultants: Mark Fimoff, George Michael

Front cover: Curt Flood, courtesy of John Rogers Archives

Published by:

The Society for American Baseball Research, Inc.

812 Huron Road, Suite 719

Cleveland, Ohio 44115-1165

Phone: (216) 575-0500

Fax: (216) 575-0502

Email: info@sabr.org

Web: www.sabr.org

Copyright © 2009

The Society for American Baseball Research

Printed in the United States of America

ISBN 978-1-933599-15-1

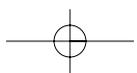
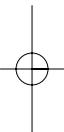
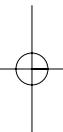
All rights reserved.

Reproduction in whole or part without permission is prohibited.

Postage paid at Hanover, Pennsylvania.

Contents

| | | |
|---|---|-----|
| NOTE FROM THE EDITOR | Nicholas Frankovich | 5 |
| CORRESPONDENCE | | 6 |
| 1921 | | |
| The Yankees, the Giants, and the Battle for Baseball Supremacy in New York | Lyle Spatz and Steve Steinberg | 9 |
| AggPro | | |
| The Aggregate Projection System | Ross J. Gore, Cameron T. Snapp, and Timothy Highley | 20 |
| Graphing Cumulative Rate Statistics | Alex Reisner | 26 |
| Home-Field Advantage | Matt Swartz | 31 |
| Coming from Behind | | |
| Patterns of Scoring and Their Relation to Winning | David W. Smith | 47 |
| Ty Cobb's Splits | Trent McCotter | 51 |
| James Lanier, Ty Cobb's Batboy | Millard J. Fisher | 56 |
| What Inspired "Take Me Out to the Ball Game"? | Steven A. King | 57 |
| <u>BASEBALL AND LAW</u> | | |
| The Sport of Courts | | |
| Baseball and the Law | Ross E. Davies | 59 |
| Arbitrator Seitz Sets the Players Free | Roger I. Abrams | 79 |
| The Origin of the Baseball Antitrust Exemption | | |
| <i>Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs</i> | Samuel A. Alito Jr. | 86 |
| A Crank on the Court | | |
| The Passion of Justice William R. Day | Ross E. Davies | 94 |
| Comiskey's Detectives | Gene Carney | 108 |
| A Tall Tale of <i>The Brethren</i> | Ross E. Davies | 117 |
| A Tale of Two Umpires | | |
| When Al Salerno and Bill Valentine Got Thrown Out of the Game | Mark Armour | 126 |
| <u>BAD PITCHING</u> | | |
| The Deadball Era's Worst Pitching Staff | Tom Ruane | 131 |
| Modern Baseball's Greatest-Hitting Team | | |
| The 1930 Phillies' Opponents | Tom Ruane | 137 |
| <u>BOOKS</u> | | |
| Two New Biographies of Alexander Cartwright | William J. Ryczek | 145 |
| CONTRIBUTORS | | 147 |
| CORRECTIONS | | 147 |



Note from the Editor

Keeping score at a desk or table on the third base side of the field were two “umpires” who were not really umpires at all, but official advocates representing each team, like lawyers representing clients. The real arbiter of the game was seated, “solitary and alone,” on the first base side, imposing in top hat, frock coat, side-burns, and cane. On a close play members of each team appealed to the respective advocates, one of whom would yell “Not out!” while the other shouted just as vehemently “Out!” It was then up to the figure in the top hat and side-burns to decide. The uselessness of the two advocates was obvious by 1858, and the Association discarded them in favor of the one-umpire system, which was continued until its shortcomings in turn brought changes.

—Harold Seymour, *Baseball: The Early Years* (1960)

So the rules and conventions governing umpires did not just burst on the scene one sunny afternoon, full-grown. They developed gradually. The third team on the field, umps have been called. And a necessary evil, they've been thought of as—necessary because, without them, every game would be likely to degenerate into a shouting match (“Safe!” “Not!” “Is so!” “Not!”) of the sort that the team advocates described by Harold Seymour engaged in so comically back in the day. As for evil, umpires are felt to be that too insofar as they really are a third team, a cadre of know-it-alls who have somehow been interjected into the game we're trying to play here, this project of outscoring the other team and defeating it in order to make our own selves the winner, the winner not because someone declared us to be so but because—well, because we won. I know, the other team will claim *they* won because, in their view, their baserunner beat the throw to the plate and then that long fly to right field was fair, if only by an inch. But it wasn't.

You see the paradox. And you accept it. You may not like it all that much, but you probably don't think about it all that much either. You focus your attention on the performance of the players who are making the game happen, not on that of the guys who are standing around adjudicating it, except when the guys adjudicating it happen, in your view, to have decided wrongly.

The same paradox that's internal to the game and complicates our enjoyment of the pure contest between us and them affects Organized Baseball in its interaction with the outside world, including the state. What the umpire is to the game between the lines, the lawyer is to the game outside them. In the eyes of the baseball purist, lawyers compound their offense by expanding the definition of the game to include the murk and messiness of all that stuff that CNN thinks is important and ESPN doesn't or at least, as we tend to feel, shouldn't—litigation and industry trends and labor negotiations and more litigation and nonstop grandstanding by a lot of people who couldn't hit a batting-practice pitch to save their lives but who carry on as if they thought a person could talk his way to first base if he just tried hard enough.

As much as lawyering is inconsistent with the Platonic ideal of baseball we carry around in our heads, it's indispensable to the actual business of baseball that we know and, by turns, love and hate. A hundred and some years ago, the Phillies were chagrined when Nap Lajoie up and signed with the crosstown Athletics. Good news came from the Pennsylvania Supreme Court when it issued an injunction requiring him to return to his former team. But then Lajoie signed with Cleveland. An Ohio judge decided that the reach of the Pennsylvania court didn't extend across the state line, and the Phillies' deprivation of Lajoie's services was now confirmed. Ross Davies tells the story (and many others) in “The Sport of Courts: Baseball and the Law” (page 63).

The outcome of a given game depends greatly on the composition of the two teams. And, in MLB, the composition of the two teams depends on the law. True, it depends on many things, including scouting and player development, but the law is one of them. Without the precedent of the Messersmith case (see Roger Abrams's article at page 79) and its legal underpinning, CC Sabathia, for example, would not have been a free agent after the 2008 season. The small-market team that couldn't afford to re-sign him would not have dealt him, and the balance of power among the thirty MLB clubs would be different. This may not be baseball as you think it should be. It's baseball as it is, and you want to know how it works, or you wouldn't be reading this publication. I would like to thank especially Ross Davies for his contributions, authorial and editorial, to this issue of *The Baseball Research Journal*.

Nick Frankovich

Correspondence

AL JOLSON?

The cover photo on the summer 2009 issue (volume 38, number 1) of *The Baseball Research Journal* is fascinating. The image of Landis throwing out the first ball has appeared in cropped form many times, but what's fascinating is what you see if you open out both front and back covers. I don't know who the distinguished-looking man sitting next to Landis is, but behind the man is New York City mayor Jimmy Walker. And next to Walker is a guy in a cap and in blackface!

I'm 95 percent certain that this is either the third game of the 1927 World Series, played in Yankee Stadium, or opening day 1927. Why 1927? Because the movie *The Jazz Singer*, with a sound sequence but otherwise a silent, was released in 1927. The guy in blackface has to be Al Jolson, who starred in the movie as a Jewish boy whose father, a cantor, wanted him to give up his career on the popular stage and succeed him. Jolson's famous sound sequence has him singing "Mammy" in blackface (with whitened lips and white gloves).

So here's Jolson, who hobnobbed with the rich and famous, showing up at Yankee Stadium in blackface, presumably to advertise himself and his movie. However incredible that may seem from our perspective, it was probably taken as a neat stunt in 1927.

*Charles Alexander
Hamilton, Ohio*

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



THE DODGER IN THE ROYALS UNIFORM

Regarding the photo on page 118 of the summer 2009 issue of *The Baseball Research Journal*: The caption states that the photo capturing Jackie Robinson in a Montreal Royals uniform and entering the Dodger clubhouse was taken in 1946. That date is incorrect, although it is true that 1946 was Robinson's only regular season with the Montreal Royals.

That photo, a staged picture, was snapped by W. C. Greene on April 10, 1947. During the sixth inning of an exhibition game between the Brooklyn Dodgers and Montreal Royals on that date at Ebbets Field, it was announced that Jackie Robinson's contract had been assigned to the Dodgers. Robinson finished the game as a member of the Royals and then moved into the Brooklyn clubhouse.

Further, there is no evidence that the Royals and Dodgers played exhibition games against each other at Ebbets Field in 1946. All sources agree that Robinson had been with the Royals for spring training in 1947 and that the Royals and Dodgers had trained together that year in Havana. Reportedly, Branch Rickey had hoped the major leaguers would be so overwhelmed by Robinson's talent during the spring that they would demand he be promoted. That didn't happen, though, and, as spring training wound down, Rickey promoted Robinson to the Dodgers despite what have become well-known objections from several players on the Brooklyn roster. This particular photo has been used many times to capture Robinson's arrival from Montreal into the big leagues.

At the Hall of Fame's website, in the section for education and baseball, the photo is credited to the Hall of Fame and is dated April 1947. According to a descriptive note there, it's from the day that Robinson entered the Dodger clubhouse for the first time. Thank you for the opportunity to set the record straight.

*Paul Hirsch
Danville, California*



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

Correspondence

RATING THE COMMISSIONERS—AND DOG MASCOTS

At the SABR convention in Washington in 1987, Paul Adomites gave a talk on the “greatest fat pitchers of all time.” To support his list, Adomites used the mathematical formula “pounds over obese divided by ERA.” At that time I was researching the life of Garland “Gob” Buckeye, who had claimed that he was the heaviest major-league pitcher of all time. I was pleased to learn that Buckeye was in third place, behind Jim McCormick and Walter “Jumbo” Brown. As a lifelong Cleveland fan, I was happy to learn that all three heavyweights had pitched for Cleveland teams.

If baseball researchers can establish criteria for determining who were the best fat pitchers, is there anything about baseball that the erudite numbers-crunchers cannot systematically evaluate?

In his *Historical Baseball Abstract*, Bill James has provided us with methods for rating baseball players. In 1997 he published *The Bill James Guide to Baseball Managers: From 1870 to Today*, where he set out a system for evaluating the most successful managers of all time. John McGraw, Connie Mack, and Joe McCarthy were the top three on his list.

Is it possible for a SABR member to systematically rate who was the greatest commissioner of baseball? If we can rate which players had the best fielding range, why not who was the greatest commissioner?

The summer 2009 issue of *The Baseball Research Journal* has articles about Judge Kenesaw Mountain Landis and whether he should be blamed for baseball’s failure to sign black players before 1946. In the same issue is Rod Kaplan’s review of Andrew Zimbalist’s *In the Best Interests of Baseball: The Revolutionary Reign of Bud Selig*. What makes the book especially valuable is that half of it is devoted to the eight men who were Selig’s predecessors as commissioner.

It is difficult to make your selection for greatest stand up even when you have statistics to support it. For example, most baseball fans and scholars think Babe Ruth is the greatest player of all time, although there are still many who strongly disagree. Some years ago Red Barber wrote in the *Christian Science Monitor* that Ruth might not be the greatest baseball player in history but that there could be little doubt that anyone changed baseball more than the “Sultan of Swat” did.

And so rating commissioners will be a difficult task. Kaplan poses these questions: How, as a commissioner, can you disagree with the owners and not only keep your job but even improve the game for the fans, owners, and players alike? Concerning major decisions made by the present commissioner, would they have been made regardless of who held the commissioner’s office? So can we expect a book systematically ranking the nine commissioners of baseball?

In the meantime a few other topics for systematic research: Who is the greatest third-string catcher of all time? Moe Berg? Ralph Houk? My personal favorite is Hank Helf. Along with first-string catcher Frankie Pytlak of the Indians, Helf caught a baseball thrown by Kenny Keltner from the top of the Terminal Tower at Cleveland’s Public Square—on August 20, 1938—a distance of 680 feet. Helf and Pytlak established the height record for catching a baseball thrown from a building.

Every once in a while, fans ask who the greatest baseball-team dog mascot is. It’s a question you can answer. Larry, the bull terrier of the Cleveland Naps from 1912 to 1917, became the only dog mascot ever to be formally introduced to a president of the United States when, on June 18, 1913, he shook paw to hand with President Woodrow Wilson.

Fred Schuld
Macedonia, Ohio



1921

The Yankees, the Giants, and the Battle for Baseball Supremacy in New York

Lyle Spatz and Steve Steinberg

NINETEEN TWENTY-ONE WAS a remarkable baseball season, one that signaled that a seismic shift in how the game was played was under way. Baseball was moving from low-scoring contests dominated by pitching to a power game with more hits, runs, and home runs. It was the year that New York City rose to the top of the baseball world, where it would remain for most of the twentieth century. At hand was a long-anticipated confrontation between the two New York clubs: the Yankees, led by Babe Ruth, and the Giants, led by John McGraw. They represented two very different philosophies. Sharing one ballpark, the two teams fought for the fan base of the nation's largest city, for the top of the baseball world, and for the future direction of the game.

Books have been devoted to nearly two dozen seasons between 1901 and 1966 and to virtually every season of the last four decades. Yet the story of this historically significant 1921 season has not been told until now. Highlights include two dramatic pennant races, the New York Yankees' first American League pennant, and the first all-New York City World Series. With as much drama and as many turnarounds as any postseason ever, that Series, a match between the American League's Yankees and the National League's Giants, provided a worthy climax to an eventful season.

With the end of World War I, the nation was ready to focus on less momentous clashes, ones that were not about life and death. The election of President Warren Harding, who in his March 4, 1921, inauguration promised the nation a "return to normalcy," signified that Americans had tired of world affairs. They were ready to consider less cosmic issues and to enjoy themselves. Newspapers across the country responded with expanded sports sections. Baseball occupied an increasingly large part of the nation's newspapers, as well as its psyche. In 1921 the game provided a season for the ages.

In 1921 baseball had center stage of the sports world almost to itself. Professional football and basketball had not yet developed as popular alternatives for fan support. College football emerged each fall, but it was a plodding game with little offense. The forward pass, which would revolutionize football in much the same way the home run did baseball, was still in its infancy.

Boxing was popular in the lower weight divisions in New York City; yet except for infrequent heavyweight title fights, the sport did not appeal to the nation at large. Moreover, the sport meant little to the youth of America in the way baseball did. The same was true of horse racing, which was recovering from corruption—fixed races—far worse than that of baseball's 1919 Black Sox scandal.

In New York City, it was on this stage that the larger-than-life figures of Ruth and McGraw, two of the dominant personalities of their day, took over in 1921. The Giants and McGraw, their autocratic manager since 1902, had dominated National League baseball and the New York City sports scene. McGraw's disdain for the American League dated from 1902, when he quit as an AL manager after repeated suspensions by and clashes with the league's president, Ban Johnson. McGraw's contempt for Ruth's new slugging game, which was repudiating the very style of play McGraw had helped make famous, only added to his disdain. Now the Giants were back in the World Series for the sixth time under his leadership.

The Brooklyn club had won the National League pennant in 1916 and 1920, but it was not a serious contender for the devotion of New Yorkers outside of that borough. Brooklyn remained a separate entity—not accepted as New York by New York—even after it had joined the city in 1898. The feeling of Brooklynites was mutual.

At the start of 1921, the Yankees—who have since won forty pennants—had won none. They were a franchise with a long history of losing. By 1921, however, the allegiance of New York City's baseball fans was in play. Ruth was the force behind the Yankees' rise in the standings and at the box office. In 1920, Ruth's first year in New York, the Yankees outdrew the Giants, the team that owned and shared their ballpark, the Polo Grounds, by 360,000 fans. That year, the Yankees had become the first team to top one million fans in home attendance. Ruth was also the catalyst behind a shift away from the game McGraw's teams had excelled at for years. When they met in the 1921 Series—the Giants and Yankees, McGraw and Ruth—they represented two very different styles: what the game had been and what it would soon become.

PRIVATE COLLECTION OF DENNIS GOLDSTEIN



The Giants had shared their home ballpark, the oddly shaped Polo Grounds, with the Yankees since 1913. For the first time, all games of the World Series were played in one park. Since the arrival of Babe Ruth in New York in 1920, the tenant was outdrawing its landlord.

Often thought of as the season in which baseball emerged from the Great War, 1920 was dominated by the spectacular slugging of Babe Ruth. Yet 1919 was when attendance rose dramatically and Ruth first astounded the baseball world playing in Boston, where he hit an unheard-of 29 home runs. The year 1920 is also remembered as the season that baseball rebounded from the 1919 Chicago Black Sox scandal. However, the scandal was not exposed until the final days of the 1920 season. In fact, the year that tested the loyalty of baseball fans was 1921, not 1920.

With the arrival of the game's first commissioner, Judge Kenesaw Mountain Landis, 1921 also marked a revolution in baseball governance. Baseball's owners had selected an outsider—the maverick federal judge who himself was a big fan of the game—and had given him enormous power. Confronted with a crisis of confidence in the integrity of the game, Landis began his rule with an iron, if somewhat erratic, fist and an eye on how baseball could best recover. It was also the year that Landis, Ruth, and the sheer drama of the baseball season brought the game back from its darkest days. Baseball was undergoing fundamental change. John McGraw personified the Deadball Era, which was not going quietly; and Babe Ruth was

fueling the new power game almost single-handedly. This season was one of the great tipping points in the history of our national pastime.

A CHALLENGER TO THE GIANTS EMERGES

By 1921 the World Series had become America's greatest sporting event. Even those who paid little attention to baseball during the regular season were cognizant of the multigame struggle between the champions of the American and National leagues. And while no one individual game could create the furor and excitement of the previous July's heavyweight title fight between champion Jack Dempsey and his French challenger, Georges Carpentier, no other event could hold the sporting public's protracted interest that the battle for baseball's championship could.¹

Dempsey was one of the two 1920s athletes whom American sports fans would come to idolize and who would symbolize the era of the Roaring Twenties. The other was New York Yankee slugger Babe Ruth. No player before (or since) has so captured the imagination of the American sporting public, many of whom had begun following the Babe's at-bats on a daily basis. His fame spread nationwide and even beyond, with more words written about him than about President

SPATZ AND STEINBERG: 1921—Yankees, Giants, and the Battle for Baseball Supremacy in New York

Warren Harding. Ruth's presence in the Yankee lineup ensured that the 1921 Series between the Yanks and John McGraw's New York Giants would be the most closely followed championship series ever. Even before the first pitch was thrown, fans were discussing whether McGraw's pitchers would be able to handle the Yankee sluggers as a group, and in particular Ruth.

With the Polo Grounds, the home park for both teams, hosting all the games, Ruth appeared to be even more of a looming threat to the Giants' pitchers. The seats down the right-field line at the Polo Grounds were a mere 256 feet away, not that the Babe needed the help. Fifty-two of his 113 home runs in two seasons with the Yankees had come on the road.

The glamour and prestige surrounding the World Series had come a long way since that day seventeen years earlier, when, after the Giants had won the 1904 National League pennant, manager McGraw famously announced, "The Giants will not play a postseason series with the American League champions."² Now the Giants were preparing to do just that. They had done so before, of course, although with limited success, much to the chagrin of McGraw, who passionately hated the American League and its president, Ban Johnson.³ After having defeated the Philadelphia Athletics in the 1905 World Series, McGraw's Giants had lost four consecutive Series to the American League pennant winners: to the Athletics in 1911 and 1913, to the Boston Red Sox in 1912, and to the Chicago White Sox in 1917.

Back in July 1904, when McGraw, backed by owner John T. Brush, issued his refusal to play a World Series against the champion of the upstart new league, there was a strong possibility that the Highlanders, as the Yankees were then called, might be that champion. But the Highlanders lost the pennant to Boston on the last day of the season, whereupon Highlanders co-owner Frank Farrell proposed to Brush and McGraw that the Giants meet his second-place team in a post-season series. Brush's refusal was brutally and mockingly short. "Who are these people?" he asked dismissively. "We do not know them at all. The Giants do not care to play minor leaguers, so this absurd challenge from a lot of nobodies will be ignored."⁴ Recognizing the new team in New York as being on a par with the lordly Giants was something neither their manager nor their owner wanted to do.

Two years later, in 1906, Farrell had his revenge. The Yankees had again been involved in an exciting pennant race, finishing in second place, three games behind the Chicago White Sox. Moreover, they had surpassed the Giants in attendance for the first time.

Hoping to convert the Yankees' popularity into dollars for the Giants, Brush and McGraw suggested a post-season series between the two teams. Farrell, who had hoped the Yanks' postseason play would be against the Chicago Cubs in the World Series, turned the Giants down flat.⁵ The "nobodies" had gotten their revenge.

Now that the Yankees, a team McGraw despised above all others, had won their first pennant, these two New York teams would meet, with the world championship at stake. That the Yankees' potent offense was led by Babe Ruth, the game's greatest attraction and the antithesis of the "inside baseball" McGraw had helped foster, only heightened the drama of this match.⁶ There were many reasons for McGraw's current antipathy to the Yankees. Perhaps foremost was that the American Leaguers had now shed their image as New York's "other team" and taken their place as the Giants' equals in the estimation of New York's fans.

Furthermore, by 1921 the hordes of early twentieth-century immigrants who had descended on New York City, mostly Jewish and Italian, had changed not only the ethnic composition of the city but also the fan base of its baseball teams. Author Harry Golden's tales of his childhood attachment to the Giants were symbolic of a generation of newcomers to America who had taken to America's game without assistance from, and often as an act of revolt against, their old-world fathers. Eric Rolfe Greenberg touched on a similar theme in his novel *The Celebrant*, a story centering on a young Jewish immigrant's devotion to pitcher Christy Mathewson.

Neither the National League team that had been in neighboring Brooklyn since the 1890s nor the American League entry relocated to Manhattan from Baltimore in 1903 had done much to change the Giants' entrenched position as the team of choice for the vast majority of New Yorkers. Brooklyn, despite becoming a part of the city in 1898, was just too far away; and its inhabitants did not fully embrace New York either. Just four years earlier, Brooklyn had voted for the merger by only 277 votes out of more than 129,000 cast; and on the eve of 1898, the editor of the *Brooklyn Daily Eagle* had declared, "Though borough it may be, Brooklyn it is, Brooklyn it remains, and Brooklyn we are."⁷

Because the Yankees rarely generated much excitement, a good portion of the American Leaguers' attendance came from fans anxious to see the great stars of the American League rather than to watch the home team. Only by going to watch the Yankees play at Hilltop Park located at Broadway and 168th Street, not too far from the Polo Grounds, could older fans

and those youngsters new to the game have the opportunity to see players like Nap Lajoie, Ty Cobb, Eddie Collins, Tris Speaker, Rube Waddell, Cy Young, Addie Joss, and Walter Johnson.

John McGraw's constant bullying of umpires and complaints that everyone was out to get the Giants had alienated fans in the league's seven other cities. Over time, his behavior came to alienate and drive away a significant number of New Yorkers. Yet despite the defections, New York had remained a strong National League town through the end of the First World War. That began to change when the Yankees became serious pennant contenders in 1919, and accelerated with the coming of Babe Ruth to New York in 1920. Ruth's arrival had won new converts for the Yanks and the American League. On the eve of the 1921 Series, New York was evenly divided in its sentiment. "A few years ago, the Giants had the big following in New York, and the Yankees were given little consideration. McGraw and his men have still as great a grip on one part of fandom as any Giant team of the past had, but in the meantime a new army of fans has rallied to the Yankee standard where there once was a scattering few."⁸

Sid Mercer of the *New York Evening Journal* also recognized the inroads made by Yankee rooters and credited Ruth for bringing it about. "This is a National League town. John J. McGraw put his label on it years ago, and the Giants are firmly established. Up to a couple of years ago, the Yanks were just the 'other New York team.' But the immense personal popularity of Babe Ruth and the dynamite in the rest of that Yankee batting order have made the Yanks popular with the element that loves the spectacular."⁹

Unlike in future years, when rooting for one New York team meant rooting against the others, many New Yorkers had been happy to see both teams win. New York fans wanted and demanded winning teams, and they had not had a pennant winner since the Giants in 1917. The Brooklyn Dodgers had won the National League pennant in 1920, but that World Series had not generated much interest or excitement in New York.¹⁰ People in Manhattan just could not get very enthused about a team from Brooklyn.

When the Dodgers reached that Series to play the Cleveland Indians, one New York newspaper noted in an editorial that "the honor will go to a new city."¹¹ Another paper sarcastically editorialized that there would be a World Series "in town," if Brooklyn would concede that "Manhattan is part of New York and admit the inhabitants of this inconsiderable suburb to a humble share in their triumph."¹² Should Brooklyn repeat as National League champions in 1921, "there'd

be nothing but thick gloom from the Statue of Liberty to Westchester County," unless the Yankees thrashed them in the World Series, wrote sportswriter Joe Vila.¹³

This year was different. New York fans were certain of one thing: for the first time since Christy Mathewson and 1905, a New York team would be baseball's world champions.

The cleaner brand of play in the American League, along with its star-studded rosters, contributed to the Yankees gaining a foothold in New York.¹⁴ Nevertheless, the overwhelming factor was the addition of Ruth. The bigger-than-life Babe, now playing on the nation's biggest stage, won the hearts of New Yorkers immediately. After having hit 29 home runs—a record at that time—with the Boston Red Sox in 1919, Ruth shattered that mark with an unprecedented 54 in 1920, more than any other *team* in the American League and thirty-five more than runner-up George Sisler. He also led by similarly large margins in runs scored, runs batted in, on-base percentage, slugging percentage, and walks.

Yet despite the Babe's accomplishments, McGraw remained defiant, convinced his pitchers could handle the Yankee slugger. When asked before the Series if the Giants would pitch to Ruth, he responded, "Why shouldn't we pitch to Ruth? I've said it before, and I'll say it again, we pitch to better hitters than Ruth in the National League."¹⁵

Despite McGraw's disdain for Ruth, the Babe had impressed him since he first saw the young slugger back in 1914, when the Giants were playing a spring-training game against the International League Baltimore Orioles. Ruth was, of course, a pitcher then; and McGraw envisioned him some day pitching for the Giants. When Orioles owner Jack Dunn sold Ruth to the Red Sox without even contacting him, McGraw was so upset he never forgave his old Baltimore teammate.¹⁶ Nor, seemingly, did McGraw ever again have a kind word to say about Ruth. In the spring of 1919, Ruth was pestering Red Sox manager Ed Barrow to allow him to play every day. "If he plays every day," said McGraw, "the bum will hit into a hundred double plays before the season is over."¹⁷ The Red Sox and Giants played a series of exhibition games that spring, and whenever Ruth had a hit he would direct a "How's that for a double-play ball, Mac?" at the Giants' bench.¹⁸

Now a full-time outfielder, Ruth had almost single-handedly begun changing the game from the old-style inside baseball practiced by McGraw to one that featured power hitting and home runs.¹⁹ McGraw had been the embodiment of that old style of play—a low-scoring, scientific game that had prevailed in baseball since the turn of the century, a game dominated

SPATZ AND STEINBERG: 1921—Yankees, Giants, and the Battle for Baseball Supremacy in New York

by pitchers, many of whom threw “trick” pitches, a game where a walk, a stolen base, and a couple of sacrifices would scratch out a precious run.²⁰ Even the introduction of the cork-centered baseball in 1910 had not changed the style of play.

Ruth did. The Babe represented the new power-hitting game, where one swing of the bat generated runs. Twenty-five major leaguers had slugged ten or more home runs in 1921, a steep increase from the usual three or four who had done so during a typical year of the Deadball Era. As recently as 1917, Yankees first baseman Wally Pipp had led the American League with nine home runs.

McGraw hated this new style of play. “I do not like the lively ball,” he said. “I think the game far more interesting when the art of making scores lies in scientific work on the bases.” He believed that while fans liked to see home runs hit, there were times when they got weary of the long ball.²¹

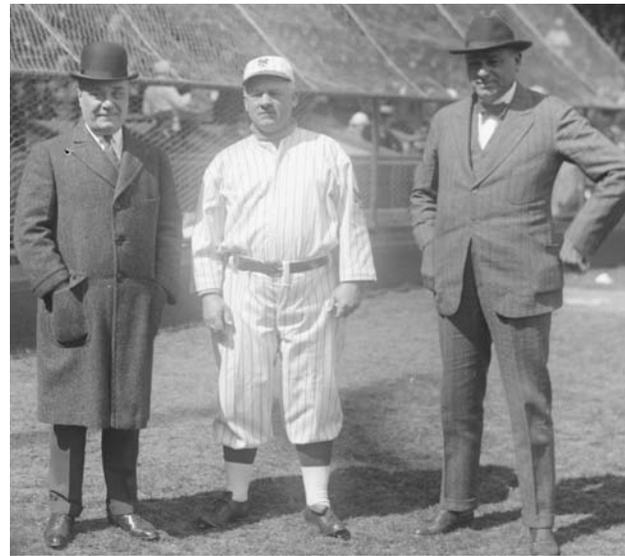
THE STAGE IS SET

But evidently the fans were not getting weary of it. More than one million of them had paid their way into the Polo Grounds in 1920 to watch the Ruth-led Yankees stay in contention all season before finishing third, behind the Chicago White Sox and the pennant-winning Cleveland Indians. The Yankees’ failure to win that year emboldened those in the New York press who had never cared for manager Miller Huggins to call for his removal, just as they had after the 1919 season.

Huggins also had to deal with unrest among his own players, who often second-guessed his moves. Yankees co-owner Tillinghast “Til” Huston was in favor of firing Huggins, but his partner, Jacob Ruppert, had faith in Huggins and wanted him to remain. Ruppert had prevailed, and now Huggins had rewarded him and Huston with the Yankees’ first American League pennant.

While *The Sporting News* complained in an October 13 editorial that “baseball is a national game, not just a diversion for Manhattanites,” the *Detroit News* more accurately reflected the opinions of baseball fans everywhere: “Never before have two teams as colorful as the contending clubs in this Series met for the title. Never has personality and individuality entered so strongly into a clash for baseball supremacy.”²²

The Giants had finished in second place in each of the three preceding seasons. Over that same period, the Yankees, under Huggins and with the addition of Ruth in 1920, had become legitimate pennant contenders. As a result, supporters of both teams had spent countless hours arguing which was the better team. Now, finally,



LIBRARY OF CONGRESS, GEORGE GRANHAM BAIN COLLECTION

John McGraw, *center*, played a key role in facilitating the sale of the Yankees to Jacob Ruppert, *left*, and Til Huston in early 1915. New York’s American League club had had little success since George Stallings, *right*, managed them in 1910, when they finished second.

the first all-New York Series was here, and the answer would be determined on the field.²³ In one corner stood John McGraw and the old, established Giants, a fixture in the city since the Rosie O’Grady days of the Gay Nineties. In the other, stood Babe Ruth and the brash Yankees, the perfect sports symbol for what would come to be called America’s Jazz Age.

Also at stake was the battle for who would be New York’s team of choice. From a vantage point ninety miles away, the *Philadelphia Inquirer* wrote: “It is more than possible that the victor in this combat will plunge ahead as the chosen team of the city, and if the American Leaguers bring home the bacon it will mean much, very much to them. . . . McGraw has never lost his hold on the popular imagination of New York, and the legend that he is the greatest still exists and is still potent.”²⁴

THE BIGGEST NAMES IN THE GAME

The story line of the 1921 World Series was succinct and direct. Two New York teams were vying for the hearts of New Yorkers, attempting to lay claim to baseball supremacy in the nation’s largest city. Two of the biggest personalities in the history of the game were leading these teams into the Series. “Big Series Resolves Itself to Question of Ruth versus McGraw,” read the headline in the *Boston Herald*.²⁵

In addition to having taken New York by storm the past two seasons, Babe Ruth had captured the attention of people throughout the country, and not only of baseball fans. He did so in part with his record-setting

home run feats. But he had much more—an exuberant joie de vivre and behavior that pushed conventional boundaries. Both were made to order for the early 1920s, a time of breaking free from constraints and having a good time.

Ruth was so genuine and so unbridled in his enthusiasm for baseball and for life that his drinking and carousing only added to his allure. Grantland Rice captured the Babe's persona well when he wrote, "Ruth, the man-boy, was the complete embodiment of everything uninhibited."²⁶ After the devastating Great War, Americans wanted to enjoy themselves. Sports became "an American obsession," and celebrities (in sports and in entertainment) became the focus of great attention and adulation.²⁷

In a time of increasing urbanization and mass production, the Babe was one of the biggest and most inimitable heroes of the times, one who appealed to people of all ages. He was "a screaming symbol, saying 'I won't go'—to some, the last gasp of the rugged individual."²⁸

Ford Frick was a young New York sportswriter who covered the Yankees in the 1920s and would serve as the commissioner of baseball from 1951 to 1965. Frick knew Ruth well and even was one of the Babe's ghostwriters. "Most of us lack the nerve to defy the conventions which we secretly detest. When we find a man who has such nerve, then we put him on a pedestal of notoriety. While we question his judgment at times, we admire his daring and his originality. That's Babe Ruth."²⁹ This was the man who would spearhead the Yankees' attack in the upcoming Series.

New York drama and literary critic Heywood Broun conveyed Ruth's impact, in an article in the *Nation* during Ruth's first season in New York. Broun related a story about the famous New York Baptist preacher John Roach Straton (1875–1929). Straton dies and goes to heaven, where he meets the "ruler of the realm," as thousands of fans are attending a Sunday ball game at the Polo Grounds. "Let New York be destroyed," cries the preacher. "Delay not thy wrath." But the ruler sees that it is the ninth inning of a tie game, with two men on base and Ruth coming to the plate. "The time has not come," declares the King.³⁰ While some may have found Broun's article humorous and others may have seen it as irreverent, it resonated because of Ruth's enormous appeal. It seemed that everyone wanted to see the Babe hit.

Everyone except John McGraw. As demeaning as the Giants' skipper had been in the past about Ruth's long-ball style, McGraw was a realist. A week before the postseason, he said, "It's a tough proposition to go

against Ruth. I'm not silly enough to say that my pitchers will prevent Ruth from hitting out of the park."³¹ A week later, he elaborated, "We shall take no liberties with a slugger like Ruth." McGraw made it clear that in threatening situations, he would not hesitate to walk the Babe, even though the fans would not like it. "Ruth is the man we must beat," he declared. "I will not be swerved by any sentiment from the grandstand. It will not disturb me at all."³²

One reporter noted that Giants pitchers were not afraid of pitching to the Babe. "But, then, there are people who are not afraid of rattlesnakes, and it is a well known scientific fact that rattlesnakes bite those who are not afraid of them just as readily as those who are afraid."³³

While Giants pitchers may have been eager for the challenge of pitching to Ruth, doing so would not be their decision to make. McGraw controlled his team to such an extent that he often called every pitch from the bench. Back in the spring of 1914, after winning three straight National League pennants, McGraw spoke openly about his heavy-handed style: "It has been said of me that 'The Giants are McGraw.' I admit that to a great extent that is true. It is my policy to build a team that is a machine, and my relation to it is always to have my hand on the lever that controls things."³⁴ McGraw had given little indication in the intervening seven years that he had changed his philosophy.

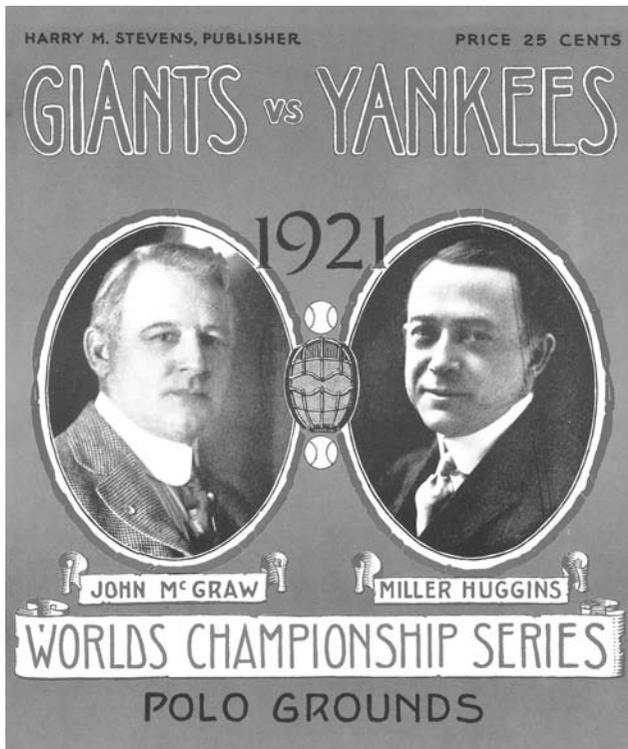
Analysts and prognosticators considered the Series a toss-up; and the odds, which hovered around even money, reflected the closely matched abilities of the two teams. Dan Daniel declared that this World Series between two of the gamest clubs ever was "the hardest ever to dope. To tell the truth, there is no edge either way."³⁵ As humorist Bugs Baer put it, "Teams look as evenly matched as [*sic*] set of false teeth."³⁶

Refusing to pick a winner, a *Sporting News* editorial added what has often been true in the postseason, that this Series between two such evenly matched teams might be decided by a break.³⁷ Sam Crane observed that an obscure player often emerges as the star of the World Series. He even offered up a possible candidate, the Giants' Johnny Rawlings, "one of the gamest men who ever played the bag [second base]."³⁸ Fred Lieb suggested that Waite Hoyt might emerge as the star, since the Brooklyn youngster was eager to gain revenge on the Giants, who originally had signed him and then let him go.³⁹

Hugh Fullerton presented some of the most detailed analyses of the upcoming event. He predicted

SPATZ AND STEINBERG: 1921—Yankees, Giants, and the Battle for Baseball Supremacy in New York

PRIVATE COLLECTION OF STEVE STEINBERG



An all-New York World Series was finally at hand. While the program cover featured the two managers, most people saw the games as a showdown between Babe Ruth and John McGraw. Because the Giants' manager called all the pitches his pitchers threw, he would determine if Ruth would get anything decent to swing at.

that the early games would be low-scoring, with hitting taking over as the Series got deeper into the pitching rotations. He went so far as to pick the winner of each game, based on projected pitching matchups. He said the Yanks would win the first two games but would eventually lose the Series, as the Giants would win the final three contests.⁴⁰

HOW THEY STACK UP

The press, which had set up headquarters at the new Commodore Hotel, made the battle between Miller Huggins's sluggers and McGraw's pitchers the focus of most of their stories.⁴¹ Mainly they talked about Ruth. The Babe had hit 59 home runs to break his own record set a year earlier, while also establishing new single-season major-league highs in runs (177), runs batted in (171), and total bases (457).⁴²

Seemingly forgotten by much of the press was that the Giants also had their league's home run leader, perhaps because George Kelly's 23 paled next to Ruth's 59. One exception was Harry A. Williams of the *Los Angeles Times*, who seemed cognizant that the Giants had some long-ball hitters of their own and predicted the Series would set a record for home runs. Then, echoing McGraw's frustration with the long-ball style

of play, Williams added, "Baseball has switched from a science to a wild scramble."⁴³

While the Yankees had the better hitting, the Giants had plenty of offensive weapons too. The Giants had hit 75 home runs in 1921, more than any previous two World Series opponents combined; yet it seemed hardly worth mentioning compared to the Yankees' record-setting total of 134.⁴⁴ The numbers were illuminating. The Giants hit .298 with 1,575 hits in 1921, and the Yankees hit .300 with 1,576 hits. Yet, because of their power, the Yankees scored 108 more runs—948 compared to the Giants' 840—to set a new twentieth-century high.

The consensus was that with Art Nehf, Phil Douglas, Fred Toney, and Jesse Barnes, the Giants had better and deeper starting pitching, though their earned run average of 3.55 was only third best in the National League, lagging behind those of Pittsburgh and Cincinnati. The Yankees were led by veterans Carl Mays and Bob Shawkey, who won 27 and 18 games respectively, and by twenty-one-year-old newcomer Waite Hoyt, who won 19. The Yanks' pitching staff had the lowest earned run average in the American League at 3.82.

In the dawning of the Lively Ball Era, many felt the Series would be dominated by hitting. "Playing for a run is a forgotten art," wrote umpire-columnist Billy Evans.⁴⁵ Yet John McGraw felt that some things never change, regardless of the era. "Pitching will, as it has so many times in the past, decide the championship," he declared.⁴⁶

John McGraw believed that his Giants had a stronger all-round set of starters than the Yankees had. "We are going into the series with plenty of confidence, but we are not boasting," he said.⁴⁷ Not surprisingly, Miller Huggins thought his team had the edge. In Carl Mays, whose 27 wins this season had come on the heels of 26 victories in 1920, the Yanks clearly had the best pitcher on either club. "My pitchers are all in good shape for the series with the Giants," said the Yankee skipper. "Ruth, Meusel, and the rest of my hitters will bat their way to victory."⁴⁸

Many of those analyzing the teams' respective strengths felt that the Giants had a big—and perhaps decisive—edge in the dugout, where they believed McGraw was clearly superior to Huggins. Sam Crane, for example, said that the Giants' manager was more creative and more of a risk taker, while Huggins was more deliberate and predictable.⁴⁹ The Giants also had the advantage of discipline that came from their manager's iron hand. The Yankees, on the other hand, openly challenged and disregarded their manager, often deciding on their own what to do.⁵⁰ Such a style

PRIVATE COLLECTION OF STEVE STEINBERG



Yankees co-owner Til Huston enjoyed nights on the town with New York sportswriters and Yankee players, especially Babe Ruth. In the summer of 1921, Huston—who never wanted to hire Miller Huggins as manager—was the source of newspaper stories of dissension within the Yankee clubhouse.

might prove fatal in a short series. Yet it seems somewhat paradoxical, if not contradictory, for sportswriters to consider the Giants the smarter and more resourceful club, when their players did little thinking on their own with McGraw pulling the levers from the dugout.

William Hanna was in the distinct minority of New York reporters in recognizing Huggins's quiet and hidden strengths. "Tactically Huggins plays second fiddle to nobody, nor is he behind anybody in quick grasp of openings," he declared.⁵¹

New Yorkers had been talking about a Giants-Yankees World Series since spring training; and now that it was here, it gripped this normally blasé city with a sense of enthusiasm and anticipation. Finding a New York City baseball fan who had no opinion on the outcome was difficult, and finding one who professed neutrality was nearly impossible. "As a result of this family feud, Manhattan seethes tonight with arguments, debates, and scraps."⁵² Even the governor, Nathan L. Miller, voiced his preference. Though he risked antagonizing millions of voters by doing so, Miller announced that he was rooting for the Giants, citing the fact that both he and McGraw were born in Cortland County, New York.⁵³

Though not directly involved, those whose allegiance was to Brooklyn, the city's third team, also had a rooting interest, one that centered on being for or against the Giants and had little to do with the Yankees. Some Dodger fans were for McGraw's club simply out of loyalty to the National League. Others loathed McGraw enough to want him humbled regardless of the

opposition. With Ruth now the most popular man in baseball and McGraw perhaps the most hated, there was no doubt the vast majority of fans in other cities across America were hoping for a Yankees victory.

While there was some muttering that an all-New York Series would not generate much interest across the country, the unprecedented crush for press credentials and game tickets belied such comments. Tickets were in such demand that Yankees co-owner Til Huston grumbled, "I know I'm going to be an unpopular cuss after this series, and the worst of it is I can't do a thing about it."⁵⁴

BIG MONEY, LARGE CROWDS, AND SO MUCH AT STAKE

Revelations about the fixed Reds-White Sox World Series of 1919 were only a year old, as news of the plot had first surfaced in September 1920. Nevertheless, there was extremely heavy betting on the Series, and the press reported it in detail.⁵⁵ Professional gamblers gave the Yankees a slight edge based on their superior offense; but because bettors considered the teams evenly matched, both clubs had vast amounts of money wagered on them.

With Nehf and Mays expected as the probable Game 1 starters, there was a last-minute switch in the odds to favor the Giants. The thinking behind this shift was that bettors felt that if Nehf lost the opener, the Giants could come back, but if Mays lost it, the Yankees could not.

No less an authority on baseball gambling than Hugh Fullerton, the Chicago reporter who broke the

 SPATZ AND STEINBERG: 1921—Yankees, Giants, and the Battle for Baseball Supremacy in New York

story of the 1919 World Series fix, reported in his syndicated column that this 1921 World Series was seeing the heaviest postseason betting ever.⁵⁶ The professionals who ran the gambling establishments went even further than Fullerton. They felt certain that the amount of money wagered on the 1921 World Series would exceed that of any previous sporting event.

Almost hourly the odds shifted back and forth, as money poured into the various gambling venues around the city. Newspapers reported the odds given and the individual bets placed on Wall Street; along Broadway; at the Jamaica, New York, racetrack; and at various well-known betting parlors.⁵⁷ A number of bets centered on Ruth himself—such as, Who would get more walks in the Series, Babe Ruth or the entire New York Giants' team?

Among those professional gamblers monitoring the betting was Arnold Rothstein, acknowledged by observers as the only gambler who had the brains, bankroll, and chutzpah to devise such a scheme as fixing a World Series. Yet, in a ludicrous miscarriage of justice, Rothstein had recently avoided indictment for any involvement in the 1919 fix.

Rumors along Broadway indicated that Rothstein was betting on the Giants to defeat the Yankees. Given his involvement in some shady dealings with Giants owner Charles Stoneham and his onetime partnership with McGraw in a billiards parlor, Rothstein might have been expected to be backing the Giants. If he was, it would not be for any reasons of friendship or sentiment. Arnold Rothstein's only sentiment was for money, so his "rooting" interest would lie only where there was money to be made.

Interest in the Series extended even to Paris, France, home to a growing American expatriate colony disproportionately made up of people with ties to New York. The Longchamps racetrack reported that among Parisian bettors the Yankees were slightly favored, just as they were among New Yorkers.

Meanwhile, back home, as the two teams prepared to do battle at the Polo Grounds, the New York City Police Department was making preparations of its own. The police had experience handling Sunday and holiday games at the Polo Grounds, but they suspected an exceptional crush of fans would attempt to purchase game-day tickets. Their job would be to get the spectators in and out of the park as efficiently as possible while dispersing the overflow crowd unable to get in. Aware of the excitement this first all-New York World Series was generating and knowing how exhilarated the fans were about it, the police department assigned three hundred men to the job of maintaining

order, the largest police contingent ever assigned to any ballpark.

Inspector Cornelius F. Cahalane was in charge of this huge force, whose primary duty would be to maintain order among the crowds in line for the 20,000 unsold seats. The remaining seats consisted of 9,000 in the unreserved upper deck, priced at \$3.30, and 11,000 bleacher seats, which sold for \$1.10.⁵⁸ Strips of reserved-seat tickets to four games had a face value of \$22.00 (\$5.50 each), and the scalpers were getting between \$44.00 and \$60.00 for the set of four.⁵⁹

Additionally, the police would be responsible for controlling and directing the ever-growing number of people coming to the park by automobile. However, once the fans were in the park, the police department's responsibilities would end. The custom in New York was to not have uniformed policemen inside the park but rather to have employees of the home team responsible for crowd control. Plainclothes detectives would also be present, mainly to look for ticket speculators. Capacity crowds of about 37,000 were expected for each game; but because of the large police presence and "the usual good nature of New York crowds," no trouble was expected at the games.⁶⁰

For the limited few with access to the new wireless technology of radio, stations WJZ in Newark, New Jersey, and WBZ in Springfield, Massachusetts, would be broadcasting the games. Station KDKA in Pittsburgh had done the first broadcast of a baseball game—a Pirates–Phillies game on August 5, 1921; but this would be the first time World Series games would be "on the air." More fans would follow the games via a medium that had become popular in many of the nation's biggest cities. Several New York City newspapers had set up boards outside their offices that would allow thousands of people in the streets to follow the play-by-play action.

Baseball's first World Series, back in 1903, had been a best-of-nine affair. There was no Series in 1904, thanks to the intransigence of McGraw and Brush; but all those between 1905 and 1918 had been best of seven. With the 1919 regular-season schedule reduced from 154 games to 140, the leagues revived the nine-game format for the Series between the Cincinnati Reds and the Chicago White Sox; and continued in 1920 for the Cleveland–Brooklyn Series, even though both leagues had returned to the 154-game schedule. The 1921 season repeated the nine-game format for what would be the final time.

In 1919 the scheduled sequence of games had been two at Cincinnati, three at Chicago, two at Cincinnati, and two at Chicago. In 1920, it was three at Brooklyn,

The Baseball Research Journal, Fall 2009

four at Cleveland, and two back at Brooklyn. But because all the games of the 1921 World Series would be played at the same park, the Polo Grounds, there would be no offdays; and the Giants and the Yankees would simply alternate as the home team.⁶¹ The Giants would assume that role in Games 1, 3, 5, and 7; and the Yankees, in Games 2, 4, 6, and 8. As such, the home team would wear their home whites, occupy the first base dugout, and bat last. The home team for a ninth game, if needed, had not yet been addressed.⁶²

New Yorkers could revel in an all-New York City World Series, with the world champion sure to come from the city. Just a year earlier, Brooklyn had represented the National League, but that was different. As *The Sporting News* editorialized, “The distinctive Gotham obsession is that anything bearing the New York label is or should be the only thing worth while—and both ball clubs of late years have been incorporated as part of New York’s best in everything. Brooklyn is the more populous borough, but it is not and never will be ‘New York.’”⁶³

Back in 1915 Miller Huggins was a third-year manager who had led the Cardinals to a surprising third-place finish in 1914. No less an authority than John McGraw was impressed with the young skipper: “Miller Huggins is my ideal of a real leader. . . . He can take a player who has shown only a mediocre supply of ability on some team and transform him into a star with his club. . . . He will make a high mark as a manager in baseball one of these days.”⁶⁴

When Huggins took over as the manager of the Yankees after the 1917 season, someone told McGraw, “Now you have a man who will go 50/50 with you in New York.” To which he replied, “No man will ever go 50/50 with me there.”⁶⁵ Perhaps it was arrogance; perhaps it was his belief, confirmed over the years, that he and his Giants had a virtual birthright over New York. Yet now with the rise of the Yankees, led by the Babe, New York was in play. And the Yankees were going for much more than “50/50.”

This was more than a civil war, even more than what Judge Landis called a “historic occasion” in “the greatest city in the country.”⁶⁶ Joe Vila wrote of the significance of this Series for the two franchises: “The New York teams must battle not only for gold, but for the magnetism that goes with victory. . . . New Yorkers have little use for losers. That is why the clans of McGraw and Huggins now are prepared for a desperate grapple.”⁶⁷ ■

Notes

This article by Lyle Spatz and Steve Steinberg is excerpted from their book *1921: The Yankees, the Giants, and the Battle for Baseball Supremacy in New York*, which will be published by the University of Nebraska Press in spring 2010.

1. On July 2, 1921, Dempsey defended his title by knocking out Carpentier in the fourth round at Jersey City. The fight drew more than 90,000 people; and the gate, estimated at more than \$1.6 million, was the first million-dollar gate in boxing history.
2. Shortly after McGraw’s announcement, Chicago Cubs president Jim Hart announced that, should his team win the pennant, they too would refuse to play against the American League in a World Series.
3. When the new American League began to challenge the established National League in 1901, John McGraw became the manager of the American League’s Baltimore team. But McGraw, a product of the rough-and-tumble National League of the 1890s, had problems with the strict discipline imposed by AL president Ban Johnson. In mid-1902 McGraw abandoned the Orioles and the American League and signed to manage the New York Giants of the National League. McGraw’s desertion was a big part of the collapse of the Baltimore franchise. The next year, the club moved to New York and began playing at Hilltop Park.
4. *The Sporting News*, 13 October 1906.
5. Originally, this postseason matchup was called the World’s Championship Series. While the *s* had dropped off the first word by 1921 and the middle word had been dropped, leaving the event as simply the World Series, some reporters still used the older name. *The Reach Guide* used World’s Series through 1930, and *The Sporting News* used it from 1942 to 1963.
6. That Ruth was the game’s greatest attraction is indisputable. Yet a profile in the *New Yorker* of March 28, 1925, began with these two sentences: “John McGraw is baseball. He is the incarnation of the American national sport.”
7. Andrew Goldblatt, *The Giants and the Dodgers: Four Cities, Two Teams, One Rivalry* (Jefferson, N.C.: McFarland, 2003), 27.
8. *New York Times*, 2 October 1921.
9. Sid Mercer, *New York Evening Journal*, 3 October 1921.
10. Although the team was known as the Dodgers for most of their years in Brooklyn, some newspapers called them the Robins during Wilbert Robinson’s tenure as manager (1914–31) as a mark of respect for Robinson.
11. *New York World*, 4 October 1920.
12. *New York Times*, 4 October 1920.
13. Joe Vila, quoted in *The Giants and the Dodgers: The Fabulous Story of Baseball’s Fiercest Feud*, by Lee Allen (New York: Putnam, 1964), 113–14.
14. In his effort to incorporate a different culture in the American League, President Johnson included these strictures in a May 8, 1901, directive to all club owners in his league: “Clean Ball is the Main Plank in the American League platform, and the clubs must stand by it religiously. There must be no profanity on the ball field. The umpires are agents of the League and must be treated with respect. I will suspend any Manager or player who uses profane or vulgar language to an Umpire, and that suspension shall remain in force until such time as the offender can learn to bridle his tongue. Rowdiness and profanity have worked untold injury to baseball. To permit it would blight the future of the American League.” Jonathan Fraser Light, *The Cultural Encyclopedia of Baseball* (Jefferson, N.C.: McFarland, 1997), 22.
15. Noel Hynd, *The Giants of the Polo Grounds* (New York: Doubleday, 1988), 220.
16. Robert W. Creamer, *Babe: The Legend Comes to Life* (New York: Penguin, 1974), p. 82. Creamer claims that when Dunn tried to sell Lefty Grove to the Giants, McGraw would have nothing to do with the Orioles, and so Dunn sold Grove to Connie Mack’s Philadelphia A’s. Dunn may have sold Ruth to Boston as a gesture of appreciation toward Joseph Lannin, the owner of the Red Sox. Lannin had helped save the International League during the Federal League war with his financial backing of the Buffalo and Providence clubs and by helping Dunn meet his payroll in Baltimore. Babe Ruth, as told to Bob Considine, *The Babe Ruth Story* (New York: E. P. Dutton, 1948), 31.

SPATZ AND STEINBERG: 1921—Yankees, Giants, and the Battle for Baseball Supremacy in New York

17. Creamer, *Babe*, 190.
18. *Ibid.*
19. Ruth pitched one game for the Yankees in 1920 and two in 1921.
20. McGraw did not use the sacrifice bunt as much as other teams. The Giants' 166 sacrifice hits in 1921 were the third lowest in the National League and were 23 fewer than the Yankees. Tris Speaker's Cleveland Indians led both leagues in sacrifice hits in 1921 with 232. To advance runners, McGraw preferred to use the hit-and-run, an offensive tactic introduced by the Baltimore Orioles teams he played on in the 1890s. See Charlie Bevis, *Sunday Baseball: The Major Leagues' Struggle to Play Baseball on the Lord's Day, 1876–1934* (Jefferson, N.C.: McFarland, 2003).
21. John McGraw, *My Thirty Years in Baseball* (Lincoln, Neb.: Bison Books, 1995), 207. (Originally published—New York: Boni and Liveright, 1923.)
22. Editorial, *The Sporting News*, 13 October 1921; and *Detroit News*, 5 October 1921.
23. The New York Giants of the National League did play the Brooklyn Bridegrooms of the American Association in the 1889 postseason. However, Brooklyn was not part of New York City at that time. The Giants, led by home run slugger Roger Connor, won the Series, 6–3.
24. *Philadelphia Inquirer*, 10 October 1921.
25. *Boston Herald*, 4 October 1921.
26. Grantland Rice, *The Tumult and the Shouting: My Life in Sport* (New York: A. S. Barnes, 1954), 114.
27. Frederick Lewis Allen, *Only Yesterday: An Informal History of the 1920s* (New York: Perennial Classics, 2000), 69. (Originally published—New York: Harper and Row, 1931. See also Frederick Lewis Allen, *The Big Change: America Transforms Itself, 1900–1950* [New York: Harper and Brothers, 1952], 133.)
28. Richard C. Crepeau, *Baseball: America's Diamond Mind, 1919–1941* (Orlando: University Presses of Florida, 1980), 91.
29. Ford Frick, *New York Evening Journal*, 19 June 1924.
30. Broun, "A Bolt from the Blue," *Nation*, 21 July 1920, 128. In the early twentieth century, religious conservatives known as Sabbatarians believed Sunday should be a day of religious observance, not to be desecrated by professional baseball games. The Sabbatarians led the battle against Sunday baseball, but the ban was slowly overturned state by state, with Pennsylvania the last state to relent, late in 1933. See Charlie Bevis, (Jefferson, N.C.: McFarland, 2003).
31. *St. Louis Times*, 28 September 1921.
32. *St. Louis Post-Dispatch*, 5 October 1921; and *St. Louis Times*, 5 October 1921.
33. Harry Cross, *New York Evening Post*, 5 October 1921.
34. *Baltimore Sun*, 31 May 1914.
35. Dan Daniel, *New York Herald*, 3 October 1921.
36. Bugs Baer, *New York American*, 4 October 1921.
37. Editorial, *The Sporting News*, 6 October 1921.
38. Sam Crane, *New York Evening Journal*, 4 October 1921.
39. Fred Lieb, *New York Evening Telegram*, 2 October 1921.
40. Hugh Fullerton, *Atlanta Constitution*, 29 September 1921.
41. Built in 1920 at the corner of East 42nd Street and Lexington Avenue, the Commodore Hotel was named for Commodore Cornelius Vanderbilt.
42. Ruth's 457 total bases is still the Major League record. His 177 runs scored is still the American League record and the post-1900 major-league record.
43. Harry A. Williams, *Los Angeles Times*, 5 October 1921.
44. The 63 home runs by World Series foes Cleveland (35) and Brooklyn (28) in 1920 had set the record that the Yankees and Giants, with 209, obliterated in 1921.
45. Billy Evans, *Philadelphia Inquirer*, 1 October 1921.
46. *New York Times*, 2 October 1921.
47. *New York Times*, 2 October 1921.
48. *Washington Post*, 3 October 1921.
49. Sam Crane, *New York Evening Journal*, 2 October 1921.
50. H. G. Salsinger, *Detroit News*, 5 October 1921.
51. William Hanna, *New York Herald*, 2 October 1921.
52. *Philadelphia Inquirer*, 4 October 1921.
53. Cortland is a small rural county situated between Syracuse, Ithaca, and Binghamton.
54. *New York Evening Journal*, 1 October 1921.
55. The *New York Times* on October 3 reported that stockbroker James O'Brien was hosting a dinner at the Ambassador Hotel that night to celebrate his winning \$100,000 for successfully picking the Yankees and Giants at odds of 4–1 to win their leagues' pennants back in July when neither club was in the lead.
56. Hugh Fullerton, *New York Evening Mail*, 8 October 1921.
57. Although gambling was illegal in New York, the law, like Prohibition, was openly flouted. And, again like Prohibition, it was protected by Tammany Hall-controlled judges and police.
58. The higher-priced \$6.60 box seats and \$5.50 reserved lower-grandstand seats had sold out quickly.
59. *Cleveland Plain Dealer*, 2 October 1921.
60. *New York Times*, 2 October 1921.
61. This was the first time that all games of the World Series would be played at the same park. The second time would be the following year, 1922, when the Yankees and Giants would repeat as pennant winners. The third and last time would be in 1944, when the St. Louis Browns and the St. Louis Cardinals played all the games at Sportsman's Park, the home field they shared.
62. After Game 7 the commissioner would hold a coin toss at the Giants' office in the Polo Grounds that would determine the home team if a ninth game was needed. Commissioner Landis flipped the coin, and the Giants won.
63. Editorial, *The Sporting News*, 22 September 1921.
64. *St. Louis Post-Dispatch*, 23 June 1915.
65. *The Sporting News*, 22 September 1921.
66. *New York Times*, 4 October 1921.
67. Joe Vila, *New York Sun*, 5 October 1921.

AggPro

The Aggregate Projection System

Ross J. Gore, Cameron T. Snapp, and Timothy Highley

MANY DIFFERENT METHODS exist for projecting the performance of major leaguers in a variety of statistical categories for an upcoming season. These projection systems include Brad Null,¹ Bill James Handbook,² CAIRO,³ CBS,⁴ CHONE,⁵ ESPN,⁶ *Hardball Times*,⁷ Hit Tracker,⁸ KFFL,⁹ Marcel,¹⁰ Oliver,¹¹ PECOTA,¹² RotoWorld,¹³ and ZiPS.¹⁴ Despite the availability and prevalence of these systems, there has been relatively little evaluation on the accuracy of the projections from these systems. Furthermore, there has been no research that attempts to aggregate these projection systems together to create a single more accurate projection.

We propose AggPro, an aggregate projection system that forms a projection for a player's performance by weighting the player's projections from the existing projection systems. We refer to each existing projection system employed by AggPro as a constituent projection system. Automated search methods are used to assign each constituent projection system a weight. The determined weight for a constituent system is then applied to the projections from that constituent system for the upcoming year. Then an AggPro projection is formed by summing the different weighted constituent projections for a player across all the projection systems.

We believe that the aggregate projections contain the best parts of each projection system and that they result in a system that is more accurate than any of the constituent systems in the AggPro projection. The AggPro projections are evaluated against all the constituent systems by measuring the average error, root mean square error (RMSE), and Pearson correlation coefficient of the projections from actual player performance for the 2008 and 2009 seasons.

It is important to note that AggPro is not just another projection system. Instead it is a methodology for aggregating effective projections from different systems into a single, more accurate projection. Furthermore, Greg Rybarczyk¹⁵ believes paradigm shifts that will improve the accuracy of projection systems are on the horizon. If paradigm-shifting projection systems are developed, the AggPro methodology will be applicable and improve the projections from these systems as well.

In the next section we describe work related to AggPro. Then AggPro is presented and evaluated. Finally we conclude and present directions for future work with AggPro.

RELATED WORK

Research efforts in the areas of baseball, computer science, and artificial intelligence have all contributed to AggPro. We review these related works here.

BellKor and the NetFlix Prize. The strategy of applying different weights to different predictions from effective projection systems has been used successfully by BellKor of AT&T labs,¹⁶ the winning solution for the NetFlix prize.¹⁷ In October 2006, Netflix released a dataset of anonymous movie ratings and challenged researchers to develop systems that could beat the accuracy of its recommendation system, Cinematch. A grand prize, known as the NetFlix Prize, of one million dollars was awarded to the first system to beat Cinematch by 10 percent. The BellKor prediction system was part of the winning solution, with 10.05 percent improvement over Cinematch.

BellKor employs 107 different models of varying approaches to generate user ratings for a particular movie. Then BellKor applies a linear weight to each model's prediction to create an aggregate prediction for the movie.¹⁸ AggPro applies this prediction strategy to projecting player performance by employing the different existing projection systems.

Nate Silver's 2007 Evaluation of Projection Systems. In 2007, Nate Silver performed a quick and dirty evaluation of the OPS (on-base plus slugging percentage) projection from eight 2007 major-league projection systems.¹⁹ Silver's work offers several evaluation metrics, including average error, RMSE, and Pearson's correlation coefficient, which we employ to evaluate AggPro. However, Silver also offers a metric to determine which system provides the best information. The metric is based on performing a regression analysis on all the systems for the past year and identifying "which systems contribute the most to the projection bundle."²⁰ AggPro performs this same regression analysis by using the projections of systems for the past year. Then each

 GORE, SNAPP, and HIGHLEY: AggPro

metric identified by the analysis as a weight is applied by AggPro to the system's projections for the upcoming year. This methodology identifies most accurate parts of each projection system and combines these parts in one aggregate projection produced by AggPro.

AGGPRO

The AggPro projections are generated through a three-part process. First, we collect the projections from five different systems for the years 2007, 2008, and 2009. Next, for each year we identify the players who were common among all five systems. We also identify the statistical categories that were common among all five projection systems.

For the upcoming year, we perform an automated search over all the combinations of possible weights for the projections of five systems from the previous year. The automated search identifies the weight set that minimizes the root mean squared error (RMSE) of the previous year's aggregate projections from the actual player performances for the previous year. Next, we apply the identified weight set to the projection from the five systems for the upcoming year. This process is discussed in more detail in the remainder of this section.

Projection and MLB Actual Data Collection. We collected projections from *Bill James Handbook*,²¹ CHONE,²² Marcel,²³ PECOTA,²⁴ and ZiPS²⁵ for the years 2007–2009. We collected the actual performance data for 2007 and 2008 from *Baseball Prospectus*. These projection systems are a representative sample of the many different systems that exist. If AggPro can successfully create from these systems an aggregate projection that is more accurate than any of the constituent projection systems, then the AggPro methodology will have been shown to be successful. Given a successful methodology, readers can apply AggPro to any combination of constituent projection systems they choose.

Identification of Players and Statistics to Project. Recall that each year AggPro projects the performance only of those players common to all five systems. The player list for each year is available online.²⁶ Also recall that AggPro can project only those statistical categories that are common to all five systems. The hitter categories common to the five systems are at-bats, hits, runs, doubles, triples, home runs, RBIs, stolen bases, walks, and strikeouts. The pitcher categories common to the five systems are innings pitched, earned runs, strikeouts, walks, and hits. These sets of players and statistics represent the largest possible set that was common to all the systems.

Automated Search to Identify AggPro Weights. Given the five projection systems, the set of common statistics and common players for the AggPro projections for an upcoming year are generated as follows:

The projections for the five systems for the previous year are gathered.

The actual performance data for the previous year are gathered.

A brute-force automated search is performed to identify the set of weights that, when applied to the projections of the five systems for the previous year, minimize the RMSE of the previous year's aggregate projections from the actual player performances for the previous year. Within the automated search, the aggregate projection is formed by applying each weight in the set to its respective projection system and summing together the projections for a player.

Once the search is completed, the identified weight set is applied to the projections of the five systems for the upcoming year. The AggPro projections for the upcoming year are formed by applying each weight in the set to its respective projection systems and summing together the projections for a player.

We generated AggPro projections for the years 2008 and 2009. For the 2008 AggPro projections, the weight set that minimizes the RMSE of the 2007 aggregate projections from the 2007 actual player-performance data is *Bill James Handbook* = 0.56, CHONE = 0.00, Marcel = 0.15, PECOTA = 0.29, and ZiPS = 0.00. Applying these weights to the projection systems for 2008 generates the 2008 AggPro projections. For the 2009 AggPro projections, the weight set that minimizes the RMSE of the 2008 aggregate projections from the 2008 actual-player performance data is *Bill James Handbook* = 0.37, CHONE = 0.00, Marcel = 0.35, PECOTA = 0.28, and ZiPS = 0.00. Applying these weights to the projection systems for 2009 generates the 2009 AggPro projections.

In the next section we evaluate the accuracy of the AggPro projections for each year using average error, RMSE, and Pearson's correlation coefficient as evaluation criteria.

EVALUATION

AggPro and the five constituent projection systems were evaluated by computing, from the actual data, the average error, RMSE, and Pearson correlation coefficient for each year for each statistical category. All of this evaluation data is shown and discussed in the appendix.

The Baseball Research Journal, Fall 2009

For each system, for each year we also computed the average of each evaluation criterion over all the statistical categories. Each year we identified the best constituent projection system (BCPS). The BCPS is the constituent system that for a given year had the best average evaluation criterion over all the statistical categories. Furthermore, we identified the best constituent projection in each statistical category for each evaluation criterion. Combining the best constituent projections of each category forms the theoretical projection system (TPS). The TPS amounts to a given fictional oracle function at the beginning of the season, a function that could pick the most accurate projection from the five systems for each statistical category. Because of how it is constructed, the TPS is guaranteed to be at least as accurate as the BCPS. We also computed the average of each evaluation criterion over all the statistical categories in the TPS. AggPro's percent improvement over the BCPS and the TPS for the average of each evaluation criterion for each year is shown in tables 1 through 3. The 2009 projections are evaluated through games completed on September 20, 2009.

Table 1. The Average Error Evaluation of AggPro

| AVERAGE ERROR | | |
|---------------|-------------------------|------------------------|
| Year | % Improvement over BCPS | % Improvement over TPS |
| 2008 | 5.7 (Bill James) | 3.4 |
| 2009 | 4.2 (Bill James) | 1.5 |

Table 2. The RMSE Evaluation of AggPro

| RMSE | | |
|------|-------------------------|------------------------|
| Year | % Improvement over BCPS | % Improvement over TPS |
| 2008 | 7.2 (Bill James) | 2.4 |
| 2009 | 6.5 (Marcel) | 2.6 |

Table 3. The Pearson Correlation Coefficient Evaluation of AggPro

| PEARSON CORRELATION COEFFICIENT | | |
|---------------------------------|-------------------------|------------------------|
| Year | % Improvement over BCPS | % Improvement over TPS |
| 2008 | 2.3 (Bill James) | 2.3 |
| 2009 | 0.7 (Bill James) | 0.2 |

AggPro is an improvement over both the BCPS and TPS for each evaluation criterion. This result is surprising. Since the TPS is constructed to contain the best constituent projection for each statistical category, we did not anticipate that AggPro would outperform it. Instead, we had anticipated that the TPS would be a baseline for the best theoretical improvement AggPro could achieve. However, it appears that the weighting

of the different projections creates an aggregate projection that is more than the sum of the best parts of the constituent projection systems. This bodes well for future work with the AggPro methodology.

CONCLUSION

There exist many different systems to predict the performance of players in a variety of statistical categories. We have shown that our methodology, AggPro, can aggregate these existing projection systems into a single aggregate projection that is more accurate than any of AggPro's constituent project systems. Furthermore, AggPro is more accurate than the TPS when measured by any of the three evaluation criteria for the years 2008 and 2009. In other words, even if, at the beginning of the season, a reader was given a fictional oracle function that could pick the most accurate projection from the five systems for each statistical category, AggPro's predictions would still be more accurate for the upcoming season.

In future work with AggPro we will explore use of distinct weight sets for the constituent projection systems for hitting and pitching statistical categories

APPENDIX

For each statistical category, the evaluation of each system for each evaluation criterion is listed in the following tables. AggPro is abbreviated AP; *Bill James Handbook*, BJ; CHONE, CH; Marcel, M; PECOTA, P, and ZiPS, Z. The system that performs the best for the given evaluation criterion for the given year appears in boldface.

Average error is the measure of the average absolute (without regard to sign) error of the player projections. Average error is measured for each statistical category. The system with the smallest average error in each category in each year appears in boldface to indicate that it is the most accurate. The 2009 projections are evaluated through games completed on September 20, 2009.

| Average Error | | Hitter—At-Bats | | | | |
|---------------|--------------|----------------|-------|-------|-------|-------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 111.0 | 112.8 | 151.3 | 128.4 | 129.3 | 139.5 |
| 2009 | 104.3 | 103.1 | 134.2 | 118.2 | 115.4 | 124.5 |

| Average Error | | Hitter—Hits | | | | |
|---------------|-------------|-------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 33.5 | 34.6 | 42.5 | 37.1 | 37.4 | 40.5 |
| 2009 | 31.8 | 32.3 | 38.8 | 35.0 | 33.9 | 36.3 |

GORE, SNAPP, and HIGHLEY: AggPro

| Average Error | | Hitter—Runs | | | | |
|---------------|------|-------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 19.1 | 19.9 | 23.5 | 20.7 | 20.6 | 21.8 |
| 2009 | 17.1 | 17.9 | 21.3 | 18.9 | 18.1 | 19.4 |

| Average Error | | Pitcher—Strikeouts | | | | |
|---------------|------|--------------------|------|------|-------------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 29.1 | 32.3 | 32.8 | 29.6 | 28.8 | 34.0 |
| 2009 | 26.4 | 29.1 | 29.0 | 27.7 | 25.8 | 31.0 |

| Average Error | | Hitter—Doubles | | | | |
|---------------|-----|----------------|-----|-----|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 8.1 | 8.5 | 9.6 | 8.6 | 8.7 | 9.3 |
| 2009 | 7.7 | 7.9 | 9.0 | 8.1 | 8.2 | 8.4 |

| Average Error | | Pitcher—Walks | | | | |
|---------------|------|---------------|------|------|-------------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 12.3 | 13.6 | 15.3 | 12.8 | 12.4 | 15.4 |
| 2009 | 10.9 | 12.3 | 12.2 | 11.4 | 10.8 | 13.0 |

| Average Error | | Hitter—Triples | | | | |
|---------------|-----|----------------|-----|-----|------------|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 1.3 | 1.3 | 1.5 | 1.5 | 1.3 | 1.5 |
| 2009 | 1.3 | 1.3 | 1.4 | 1.5 | 1.3 | 1.4 |

| Average Error | | Pitcher—Hits (Allowed) | | | | |
|---------------|------|------------------------|------|------|-------------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 34.7 | 37.1 | 41.0 | 36.3 | 34.6 | 42.7 |
| 2009 | 27.5 | 29.3 | 32.1 | 30.8 | 27.6 | 34.0 |

| Average Error | | Hitter—Home Runs | | | | |
|---------------|-----|------------------|-----|-----|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 5.0 | 5.3 | 5.9 | 5.4 | 5.3 | 5.5 |
| 2009 | 5.1 | 5.3 | 5.7 | 5.5 | 5.4 | 5.4 |

Root Mean Squared Error (RMSE) is the frequently used measure of the differences between values predicted by a model or an estimator and the values actually observed from the phenomenon being modeled or estimated. RMSE is known as the best measure of accuracy for prediction models. RMSE is measured for each statistical category. The system with the smallest RMSE in each category in each year is bolded to indicate that it is the most accurate. The 2009 projections are evaluated through games completed on September 20, 2009.

| Average Error | | Hitter—RBIs | | | | |
|---------------|------|-------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 18.3 | 19.2 | 22.9 | 19.9 | 19.9 | 21.4 |
| 2009 | 17.2 | 17.7 | 20.9 | 18.9 | 18.3 | 19.8 |

| RMSE | | Hitter—At-Bats | | | | |
|------|-------|----------------|-------|-------|-------|-------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 144.1 | 150.5 | 197.3 | 157.8 | 165.0 | 183.6 |
| 2009 | 134.3 | 139.2 | 174.5 | 148.3 | 151.9 | 166.4 |

| Average Error | | Hitter—Stolen Bases | | | | |
|---------------|-----|---------------------|-----|-----|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 3.8 | 3.8 | 4.4 | 4.1 | 4.4 | 4.1 |
| 2009 | 3.8 | 4.0 | 4.5 | 4.1 | 4.0 | 4.6 |

| RMSE | | Hitter—Hits | | | | |
|------|------|-------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 42.8 | 45.1 | 54.3 | 45.8 | 46.9 | 51.7 |
| 2009 | 39.9 | 42.2 | 48.2 | 42.9 | 43.4 | 46.8 |

| Average Error | | Hitter—Walks | | | | |
|---------------|------|--------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 12.3 | 13.7 | 15.8 | 14.5 | 14.4 | 14.9 |
| 2009 | 13.0 | 13.5 | 15.6 | 13.9 | 13.6 | 13.9 |

| Average Error | | Hitter—Strikeouts | | | | |
|---------------|------|-------------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 21.7 | 22.7 | 29.6 | 25.1 | 25.1 | 27.5 |
| 2009 | 21.2 | 21.0 | 27.7 | 23.6 | 24.1 | 25.2 |

| RMSE | | Hitter—Runs | | | | |
|------|------|-------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 24.2 | 25.9 | 29.3 | 25.2 | 25.9 | 27.3 |
| 2009 | 21.6 | 23.3 | 26.7 | 23.0 | 23.4 | 24.9 |

| Average Error | | Pitcher—Innings Pitched | | | | |
|---------------|------|-------------------------|------|------|-------------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 34.7 | 37.3 | 40.6 | 35.8 | 34.6 | 41.5 |
| 2009 | 29.5 | 31.1 | 34.0 | 31.7 | 30.4 | 35.1 |

| RMSE | | Hitter—Doubles | | | | |
|------|------|----------------|------|------|------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 10.1 | 10.6 | 12.0 | 10.5 | 10.8 | 11.6 |
| 2009 | 9.5 | 10.2 | 11.0 | 9.9 | 10.2 | 10.4 |

| Average Error | | Pitcher—Earned Runs | | | | |
|---------------|------|---------------------|------|------|-------------|------|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 16.0 | 17.2 | 19.5 | 16.9 | 16.4 | 21.1 |
| 2009 | 13.0 | 13.8 | 14.8 | 14.6 | 12.9 | 16.2 |

| RMSE | | Hitter—Triples | | | | |
|------|-----|----------------|-----|-----|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | 1.7 | 1.8 | 2.0 | 2.0 | 1.8 | 2.0 |
| 2009 | 1.9 | 1.9 | 2.0 | 1.9 | 1.9 | 2.0 |

The Baseball Research Journal, Fall 2009

| RMSE Year | Hitter—Home Runs | | | | | |
|--------------|------------------|-----|-----|-----|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | 6.9 | 7.5 | 7.7 | 7.0 | 7.1 | 7.5 |
| 2009 | 6.7 | 7.1 | 7.3 | 7.1 | 7.1 | 7.2 |

| RMSE Year | Hitter—RBIs | | | | | |
|--------------|-------------|------|------|------|------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 23.7 | 25.2 | 28.5 | 24.5 | 25.4 | 27.7 |
| 2009 | 21.4 | 23.2 | 25.5 | 23.0 | 23.1 | 24.8 |

| RMSE Year | Hitter—Stolen Bases | | | | | |
|--------------|---------------------|-----|-----|-----|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | 6.0 | 6.5 | 7.1 | 6.5 | 6.8 | 6.9 |
| 2009 | 6.1 | 6.6 | 7.0 | 6.3 | 6.7 | 7.6 |

| RMSE Year | Hitter—Walks | | | | | |
|--------------|--------------|------|------|------|------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 17.0 | 18.1 | 20.2 | 17.9 | 18.4 | 19.6 |
| 2009 | 16.6 | 17.8 | 20.1 | 17.7 | 17.7 | 18.0 |

| RMSE Year | Hitter—Strikeouts | | | | | |
|--------------|-------------------|------|------|------|------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 29.2 | 31.0 | 39.8 | 31.7 | 34.1 | 37.8 |
| 2009 | 27.5 | 28.5 | 27.7 | 29.8 | 33.3 | 34.1 |

| RMSE Year | Pitcher—Innings Pitched | | | | | |
|--------------|-------------------------|------|------|------|-------------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 48.7 | 53.5 | 54.4 | 48.6 | 47.5 | 57.2 |
| 2009 | 41.2 | 44.5 | 47.3 | 43.9 | 41.2 | 48.4 |

| RMSE Year | Pitcher—Earned Runs | | | | | |
|--------------|---------------------|------|------|------|-------------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 22.2 | 24.0 | 26.3 | 22.8 | 22.7 | 28.7 |
| 2009 | 17.9 | 19.2 | 21.3 | 20.0 | 17.9 | 23.1 |

| RMSE Year | Pitcher—Strikeouts | | | | | |
|--------------|--------------------|------|------|------|-------------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 40.1 | 44.7 | 42.8 | 39.4 | 38.8 | 45.2 |
| 2009 | 35.5 | 39.4 | 39.1 | 37.2 | 34.8 | 40.8 |

| RMSE Year | Pitcher—Walks | | | | | |
|--------------|---------------|------|------|------|-------------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 16.6 | 18.7 | 19.9 | 16.6 | 16.3 | 19.9 |
| 2009 | 14.8 | 16.9 | 16.8 | 15.6 | 14.6 | 17.9 |

| RMSE Year | Pitcher—Hits (Allowed) | | | | | |
|--------------|------------------------|------|------|------|-------------|------|
| | AP | BJ | CH | M | P | Z |
| 2008 | 48.9 | 53.4 | 56.2 | 48.9 | 48.5 | 59.5 |
| 2009 | 39.2 | 42.3 | 46.6 | 42.9 | 39.1 | 48.5 |

The Pearson correlation coefficient is a measure of the correlation (linear dependence) between two variables. The Pearson correlation coefficient is measured for each statistical category. The system with the highest Pearson correlation coefficient in each category in each year is bolded to indicate that it is the most accurate. The 2009 projections are evaluated through games completed on September 20, 2009.

| Year | Pearson Correlation Coefficient | | | Hitter—At Bats | | |
|------|---------------------------------|------------|-----|----------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .68 | .66 | .47 | .59 | .55 | .53 |
| 2009 | .70 | .70 | .55 | .59 | .56 | .54 |

| Year | Pearson Correlation Coefficient | | | Hitter—Hits | | |
|------|---------------------------------|------------|-----|-------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .69 | .68 | .55 | .63 | .59 | .58 |
| 2009 | .70 | .70 | .63 | .63 | .60 | .60 |

| Year | Pearson Correlation Coefficient | | | Hitter—Runs | | |
|------|---------------------------------|------------|-----|-------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .70 | .67 | .61 | .64 | .63 | .63 |
| 2009 | .71 | .71 | .63 | .64 | .63 | .63 |

| Year | Pearson Correlation Coefficient | | | Hitter—Doubles | | |
|------|---------------------------------|------------|-----|----------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .66 | .65 | .53 | .60 | .57 | .56 |
| 2009 | .65 | .66 | .57 | .59 | .55 | .58 |

| Year | Pearson Correlation Coefficient | | | Hitter—Triples | | |
|------|---------------------------------|------------|-----|----------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .64 | .62 | .55 | .55 | .58 | .56 |
| 2009 | .52 | .52 | .49 | .46 | .47 | .48 |

| Year | Pearson Correlation Coefficient | | | Hitter—Home Runs | | |
|------|---------------------------------|------------|-----|------------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .77 | .75 | .72 | .74 | .73 | .73 |
| 2009 | .73 | .74 | .70 | .69 | .69 | .70 |

| Year | Pearson Correlation Coefficient | | | Hitter—RBIs | | |
|------|---------------------------------|------------|-----|-------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .72 | .71 | .63 | .69 | .66 | .65 |
| 2009 | .72 | .73 | .65 | .67 | .66 | .66 |

| Year | Pearson Correlation Coefficient | | | Hitter—Stolen Bases | | |
|------|---------------------------------|------------|-----|---------------------|-----|-----|
| | AP | BJ | CH | M | P | Z |
| 2008 | .79 | .79 | .74 | .74 | .73 | .74 |
| 2009 | .74 | .74 | .69 | .71 | .69 | .67 |

GORE, SNAPP, and HIGHLEY: AggPro

| Pearson Correlation Coefficient | | | | Hitter—Walks | | |
|---------------------------------|-----|-----|-----|--------------|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | .76 | .74 | .70 | .71 | .70 | .69 |
| 2009 | .73 | .72 | .65 | .68 | .68 | .68 |

| Pearson Correlation Coefficient | | | | Hitter—Strikeouts | | |
|---------------------------------|-----|-----|-----|-------------------|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | .71 | .68 | .54 | .64 | .61 | .63 |
| 2009 | .71 | .71 | .50 | .64 | .57 | .58 |

| Pearson Correlation Coefficient | | | | Pitcher—Innings Pitched | | |
|---------------------------------|-----|-----|-----|-------------------------|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | .72 | .70 | .67 | .68 | .69 | .67 |
| 2009 | .76 | .75 | .66 | .72 | .75 | .68 |

| Pearson Correlation Coefficient | | | | Pitcher—Earned Runs | | |
|---------------------------------|-----|-----|-----|---------------------|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | .73 | .72 | .68 | .70 | .69 | .66 |
| 2009 | .78 | .76 | .67 | .71 | .77 | .67 |

| Pearson Correlation Coefficient | | | | Pitcher—Strikeouts | | |
|---------------------------------|-----|-----|-----|--------------------|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | .69 | .68 | .65 | .66 | .67 | .63 |
| 2009 | .73 | .71 | .66 | .70 | .73 | .65 |

| Pearson Correlation Coefficient | | | | Pitcher—Walks | | |
|---------------------------------|-----|-----|-----|---------------|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | .71 | .69 | .62 | .66 | .67 | .60 |
| 2009 | .71 | .68 | .61 | .67 | .71 | .60 |

| Pearson Correlation Coefficient | | | | Pitcher—Hits (Allowed) | | |
|---------------------------------|-----|-----|-----|------------------------|-----|-----|
| Year | AP | BJ | CH | M | P | Z |
| 2008 | .73 | .72 | .69 | .71 | .70 | .69 |
| 2009 | .79 | .78 | .68 | .73 | .78 | .70 |

Notes

Ross J. Gore would like to thank Michael Spiegel for helping to hone this idea and referring the authors to the BellKor literature despite his "healthy distaste" for sports. The authors would also like to thank Chone Smith for his prompt reply to our query about the availability of the CHONE projections.

1. www.bradnull.blogspot.com/ (accessed 12 March 2009).
2. http://bis-store.stores.yahoo.net/bijahapr203.html (accessed 12 March 2009).
3. www.replacementlevel.com/index.php/RLYW/comments/cairo_projections_v01 (accessed 12 March 2009).
4. http://fantasynews.cbssports.com/fantasybaseball/stats/sortable/points/1B/standard/projections (accessed 12 March 2009).
5. www.baseballprojection.com/ (accessed 12 March 2009).
6. http://games.espn.go.com/flb/tools/projections (accessed 12 March 2009).
7. www.actasports.com/detail.html?id=019 (accessed 12 March 2009).
8. http://baseballanalysts.com/archives/2009/02/2009_projection.php (accessed 12 March 2009).
9. www.kffl.com/fantasy-baseball/2009-baseball-draft-guide.php (accessed 12 March 2009).
10. www.tangotiger.net/marcel/ (accessed 12 March 2009).
11. http://statspeak.net/2008/11/2009-batter-projections.html (accessed 12 March 2009).
12. www.baseballprospectus.com/pecota/ (accessed 12 March 2009).
13. www.rotoworld.com/premium/draftguide/baseball/main_page.aspx (accessed 12 March 2009).
14. www.baseballthinkfactory.org/ (accessed 12 March 2009).
15. http://baseballanalysts.com/archives/2009/02/2009_projection.php (accessed 12 March 2009).
16. R. Bell, Y. Koren, and C. Volinsky, "Chasing \$1,000,000: How We Won the Netflix Progress Prize," *ASA Statistical and Computing Graphics Newsletter* 18(2):4–12, 2007.
17. J. Bennet and S. Lanning, "The Netflix Prize," KDD Cup and Workshop, 2007.
18. R. Bell, Y. Koren, and C. Volinsky, "Chasing \$1,000,000: How We Won the Netflix Progress Prize," *ASA Statistical and Computing Graphics Newsletter* 18(2):4–12, 2007.
19. www.baseballprospectus.com/unfiltered/?p=564 (accessed 28 July 2009).
20. Ibid.
21. http://bis-store.stores.yahoo.net/bijahapr203.html (accessed 12 March 2009).
22. www.baseballprojection.com/ (accessed 12 March 2009).
23. www.tangotiger.net/marcel/ (accessed 12 March 2009).
24. www.baseballprospectus.com/pecota/ (accessed 12 March 2009).
25. www.baseballthinkfactory.org/ (accessed 12 March 2009).
26. www.cs.virginia.edu/~rjg7v/aggpro/ (accessed 28 July 2009).



Graphing Cumulative Rate Statistics

Alex Reisner

No doubt some graphics do distort the underlying data, making it hard for the viewer to learn the truth. But data graphics are no different from words in this regard, for any means of communication can be used to deceive.

—Edward Tufte, *The Visual Display of Quantitative Information*

DATA-VISUALIZATION EXPERT Edward Tufte suggests that graphs can deceive as easily as words. While that is certainly true, this article is not about intentional deception. Rather, it's about graphics that have deceived their very authors. These graphs do not illustrate their purported subject because they are unwittingly dominated by some statistical phenomenon that causes the same distortion in all datasets, making vastly different numbers look similar.

I've recently noticed a surprising number of graphs that have titles descriptive of the content the author *wants* them to have and not what is *actually* depicted. Graphs should be read skeptically, not because there is anything inherently sinister about them but because they make such powerful arguments, encapsulating large amounts of information, and are so frequently misunderstood by their authors that the potential for being led astray is serious.

THE PROBLEM

The phenomenon I'm talking about is simple and widespread. It's the tendency of cumulative "rate" stats to decrease in variation as the sample size increases. We understand this intuitively: Think about hitters' batting averages at different points in the season. In April there are always some players batting over .400 who you know won't finish the season over .300, and some

players who start off in a .150 slump will finish at .300. The reason for these disparities is the small sample size. When a player has 20 at-bats, every hit has a large impact on his batting average: The difference between .150 (3-for-20) and .300 (6-for-20) is only 3 hits (made up by a 5-for-5 streak). When a player has 400 at-bats in August, the effect of a hit is dramatically less: The difference between .150 (60-for-400) and .300 (120-for-400) is 60 hits (made up by an 86-for-86 streak).

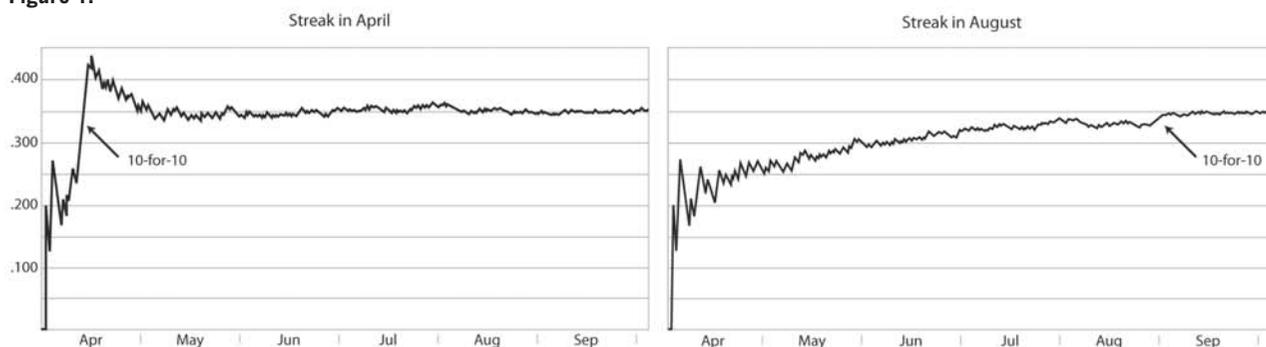
CASE STUDY 1

If we wanted to use a line graph to illustrate the fluctuation of a player's batting average over the course of a season, how would we do it? The most common solution is to plot batting average along the y-axis and time along the x-axis. This has been done countless times, including in this publication,¹ and it generally does not show what the author intends to show.

What you get is a graph that varies wildly at the beginning and levels out as time progresses and the player settles into his "final" batting average. So what's the problem? Let's look at what happens if a hitter goes on a 10-for-10 streak. Here are two graphs for a hypothetical season. The datasets are identical except that in the first the player goes 10-for-10 in mid-April and in the second he goes 10-for-10 in August (in each case the non-streak at-bats are 2-for-10). (See figure 1.)

Would you have noticed the streak in August if the arrow wasn't there? All those big zigzags in April appear much more significant, but they never represent anything better than 2-for-2. *Graphs should help us see things we didn't know about.* If what we're looking for is local trends (such as streaks), these graphs don't

Figure 1.



REISNER: Graphing Cumulative Rate Statistics

help. They exaggerate all streaks early in the season and hide streaks late in the season. Moreover, they tell very different stories about the season in general. To me, the first says that the player had a tremendous hitting streak in April and leveled off for the rest of the year, while the second shows a gradual upward trend for the whole season. But a 10-for-10 streak in April isn't enough to change the character of an entire season, is it? (In the next section I'll suggest a way to answer this question.)

In other words, these graphs show the player's batting average over time. But if we want to see when players are "hot" and when they're "cold," we don't really want to see their batting average. Why? Because batting-average graphs don't illustrate the player's day-to-day performance. They illustrate the statistical phenomenon that batting averages stabilize as the season progresses. (Of course, the player's day-to-day performance is included, but it's overwhelmed—we can't see it easily.)

CASE STUDY 2

Let's look at a set of graphs illustrating pennant races. How do we represent a team's performance at a certain point in the season? A common answer is winning percentage. Like batting average, it's a cumulative rate statistic and so subject to the same stabilization-over-time phenomenon. Let's look at the dramatic pennant race between the Brooklyn Dodgers and New York Giants in 1951. The Giants lost 11 straight in April but then won 17 of their next 25 (.680) and by the end of May they were back at .500. The Dodgers were 10 games ahead, however, and continued to play better baseball over the next 10 weeks. Through August 11, the Dodgers were 13 games ahead and looked like the certain winners. They played over .500 for the remainder of the season, but the Giants went on an amazing 37-of-44 streak (.841) and finished September almost as strong, tying Brooklyn on the last day of the season and winning a best-of-three playoff series. Figure 2 illustrates the race in terms of winning percentage:

Figure 2.

How well does this graph match up with our understanding of the race? Well, it appears to show that, beginning in April, the Giants had a tremendous losing streak (so far so good) followed by a winning streak almost as significant (also true). Then it looks like both teams leveled off and kept pace with each other until mid-August, when the Giants were slightly better for the rest of the season. From this graph you would never guess how dramatic the race really was. There is no indication that the Giants' streak in August was one of the most significant six-week performances ever. It appears to be dwarfed by their April–May streaks, just as our April hitting streak dwarfed the August hitting streak in case study 1. Again, we are not seeing the teams' performances here, we are seeing the statistical phenomenon that winning percentages stabilize over the course of the season.

CASE STUDY 3

For a final example, let me turn to the subject of "Cumulative Home Run Frequency and the Recent Home Run Explosion," the *BRJ* article by Costa, Huber, and Saccoman. The article presents a series of graphs, depicting the cumulative home-run percentages of batters throughout their careers. Home-run percentage is home runs divided by at-bats: another cumulative rate stat. These graphs look much like those we've looked at so far (with decreasing variation from left to right) and led the authors to conclude that "as the sluggers' careers progressed, their [cumulative home-run rate] reached a particular value and remained there." My point is not that this statement is wrong, but that the authors did not present sufficient information for making that conclusion since home-run percentage is subject to the same stabilization phenomenon as any other rate stat, and graphing it cumulatively over time will almost always yield a line that flattens out.

Another point made in their article that the career home run rates of Bonds, McGwire, and Sosa increase significantly, and the graphs do show that phenomenon. In fact, because their graphs show this increase, we know that actual day-to-day home-run frequencies of those players increased dramatically indeed, far more than the authors likely realized. Bonds hit a home run every 8.2 at-bats (12.2 percent) during his last five full seasons, an outrageous number. The previous five seasons he hit one every 13.2 at-bats (7.6 percent). This increase is literally off the authors' charts, yet it appears mundane because it is lost as the cumulative sample size increases.

THE SOLUTION

The good news is that there's a surprisingly simple and generally applicable solution to this problem: instead of graphing a cumulative rate, simply graph the absolute distance from an arbitrarily-chosen rate. For example, if we want to graph a pennant race it usually makes sense to choose .500 as our arbitrary winning percentage (rate) and graph the distance of each team from that rate (in number of wins). For example, take this game log for a hypothetical team:

| G | W | PCT | Diff |
|----|---|-------|------|
| 1 | 1 | 1.000 | +0.5 |
| 2 | 2 | 1.000 | +1.0 |
| 3 | 2 | .666 | +0.5 |
| 4 | 3 | .750 | +1.0 |
| 5 | 4 | .800 | +1.5 |
| 6 | 4 | .666 | +1.0 |
| 7 | 4 | .571 | +0.5 |
| 8 | 5 | .625 | +1.0 |
| 9 | 5 | .555 | +0.5 |
| 10 | 6 | .600 | +1.0 |
| 11 | 7 | .636 | +1.5 |
| 12 | 7 | .583 | +1.0 |
| 13 | 8 | .615 | +1.5 |
| 14 | 8 | .571 | +1.0 |
| 15 | 8 | .533 | +0.5 |
| 16 | 8 | .500 | 0 |
| 17 | 8 | .471 | -0.5 |
| 18 | 8 | .444 | -1.0 |
| 19 | 9 | .474 | -0.5 |
| 20 | 9 | .450 | -1.0 |

Figure 3.



Note that Diff (the difference, what we want to graph) always changes by exactly 0.5. This will be true at any point in the season, and it is consistent with our desire for all wins to be equal (for a win in April to be worth the same as a win in August). Figure 3 illustrates, in our new format, the same graph of the 1951 NL pennant race:

Now we see the things we wanted to see before: that Brooklyn kept playing well until mid-September but New York played extraordinarily well from mid-August to the end, and that the Giants' performance in August was more significant than their April-May run. We also notice a 31-of-42 (.738) by Brooklyn spanning July and August, which ended just as New York's run began.

We can do the same thing with our batting-average graphs, although our arbitrary starting point is not as obvious. If we choose .500 again, all batters (realistically speaking) will have a steady downward trend because, as we know, a .500 average is most attainable at the start of the season and becomes less likely as at-bats accumulate. Even when Ted Williams hit .406 he was constantly getting "worse" if we consider .500 as "average." So we should choose a benchmark that is the batting-average equivalent of a .500 winning percentage—a batting average, for example, of .300. Figure 4 illustrates some data and graphs for a hypothetical batter.

You'll notice that the hits-from-.300 data, like the pennant-race data, always move in same-size increments, so that each hit is "worth" the same amount. However, unlike the pennant-race graphs, this graph shows those increments as different when the graph is moving upward and when it is moving downward. In general, the amount of each downward move is b and the amount of each upward move is $1-b$ where b is our arbitrary benchmark.

This inequality may seem strange at first, but think about it this way: Imagine that hitting was so difficult that league leaders hit just .010, which would mean they totaled about five hits a year. Outs would be so common they would hardly bother anyone, but getting a hit would be a big event, and with each one you would be one fifth of the way to being a league leader. Each hit would help far more than each out hurt. It's the same, though less dramatic, when we expect our league leaders to hit .340: Each hit helps a bit more than each out hurts.

The choice of benchmark can have a large effect on the appearance of the batting-average graph. A full discussion of this subject is outside the scope of this article, but suffice it to say that you want to choose

REISNER: Graphing Cumulative Rate Statistics

something in the middle of the dataset's range. For example, if a player's average varies between .290 and .350 in a given year, it would be safe to choose .320 as your benchmark. If you're graphing data for just one player it usually makes sense to use his final average as the benchmark, though the choice of benchmarks generally warrants far more discussion.

Now we also have more insight into the question I asked above: Can a 10-for-10 streak in April affect the character of a batter's entire season? Can he "level off" and end up hitting .350, as the first graph suggests?

Here are the distance-from-.300 graphs for the same two seasons (see figure 5).

Clearly the answer is no. These graphs tell us a more sensible story: that a hitting streak early in the season has the same effect on a player's *final* average as the same streak late in the season.

RIGHT AND WRONG

At this point you may be wondering how we can have graphs that display basically the same data and yet look so different. You might also be wondering if the

Figure 4.

| AB | H | AVG | Diff (.300) | Diff (.500) |
|-----|-----|------|-------------|-------------|
| 1 | 0 | .000 | -0.3 | -0.5 |
| 2 | 0 | .000 | -0.6 | -1.0 |
| 3 | 1 | .333 | +0.1 | -0.5 |
| 4 | 1 | .250 | -0.2 | -1.0 |
| 5 | 1 | .200 | -0.5 | -1.5 |
| 6 | 1 | .167 | -0.8 | -2.0 |
| 7 | 2 | .286 | -0.1 | -1.5 |
| 8 | 2 | .250 | -0.4 | -2.0 |
| 9 | 3 | .333 | +0.3 | -1.5 |
| 10 | 4 | .400 | +1.0 | -1.0 |
| 11 | 4 | .364 | +0.7 | -1.5 |
| 12 | 4 | .333 | +0.4 | -2.0 |
| 13 | 4 | .308 | +0.1 | -2.5 |
| 14 | 4 | .286 | -0.2 | -3.0 |
| 15 | 4 | .267 | -0.5 | -3.5 |
| 16 | 4 | .250 | -0.8 | -4.0 |
| 17 | 5 | .294 | -0.1 | -3.5 |
| 18 | 5 | .278 | -0.4 | -4.0 |
| 19 | 5 | .263 | -0.7 | -4.5 |
| 20 | 6 | .300 | 0 | -4.0 |
| ... | ... | ... | ... | ... |

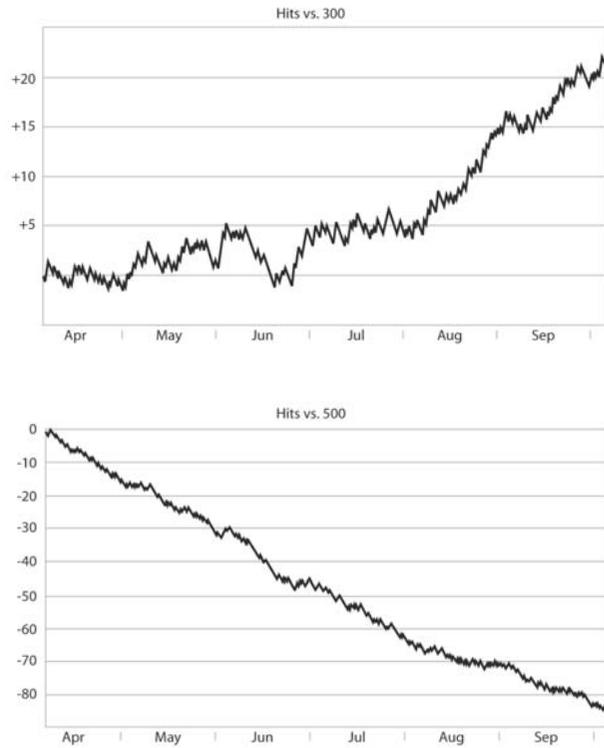
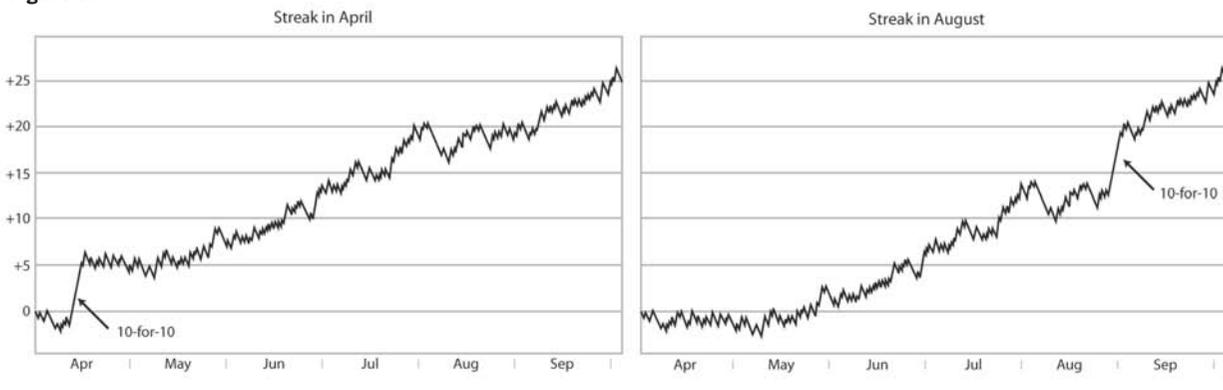


Figure 5.



“improved” graphs are subject to some kind of distortion, and you might even be offended that I’ve taken graphs of factual information (winning percentage, batting average, etc.) and manipulated them to align with how I “want” them to look so that they “feel” right.

It seems to me that, while we are accustomed to thinking of numbers as “objective,” they are not. If we return to Tufte’s analogy, even if we all agree on the meaning of terms (in this case, “1,” “2,” “3,” “24,” etc.), as soon as we begin constructing sentences (tables and graphs) they become tools for making arguments, and they can be wielded clumsily or with precision.

I submit that there is no such thing as a “correct” batting-average graph any more than there is a “correct” statement about the quality of a player’s season. However, if you do employ graphs in a discussion, you ought to be aware of the properties and behaviors of the numbers you’re graphing and be sure to select a sensible dataset or to create a derivative dataset that better isolates the point you want to make, a dataset not dominated by some statistical phenomenon.

As readers of graphs, we also need sufficient statistical literacy to interpret the data. Often the deception lies not in the graph itself but in the data chosen for it. I predict that, in the coming years, as graphing software becomes more accessible, we’re going to start seeing many more graphs of baseball data, and we need to be ready. Graphs make powerful statements, which means they can make statements that are powerfully persuasive but incorrect. We will be fooled, and will miss opportunities for important discoveries, if we don’t understand what we’re looking at. ■

Notes

1. Gabriel Costa, Michael Huber, and John Saccoman, “Cumulative Home Run Frequency and the Recent Home Run Explosion,” *The Baseball Research Journal* 34 (2005): 37–41.

Home-Field Advantage

Matt Swartz

IN EVERY SPORT and at every level, the home team wins more games than the visiting team. While this is true in baseball, it is less the case than in other sports. Throughout baseball history, the home team has won approximately 54 percent of the games played. Nearly every aspect of the game has changed drastically over the past century, but home-field advantage has barely changed at all. Consider home-field advantage in each decade since 1901:

| Decade | Home-Field Win Percentage |
|---------|---------------------------|
| 1901–09 | .533 |
| 1910–19 | .540 |
| 1920–29 | .543 |
| 1930–39 | .553 |
| 1940–49 | .544 |
| 1950–59 | .539 |
| 1960–69 | .540 |
| 1970–79 | .538 |
| 1980–89 | .541 |
| 1990–99 | .535 |
| 2000–09 | .542 |

Although small decreases in home-field advantage have occurred at times, any incidence still represented a minute change relative to the large shift in nearly every other baseball statistic over the past century.

This should surprise analysts more than it does. Nearly every study of psychology with respect to baseball has revealed either small effects or none. We all know that players are human, but the numbers do not seem to indicate much of an obvious psychological aspect to the game. Hundreds of researchers have tried to discover clutch hitting, but few have found any evidence of its being a repeatable skill. Researchers who have tried to identify synergy effects have not found any evidence that certain players increase a team's chance of winning. Some have attempted to look for the impact of veterans on playoff races and have not found significant effects there either. We have attempted all kinds of ways to splice the data to reveal a large psychological effect within baseball, to show that baseball players do not behave like statistical models, and there seems to be little evidence of any strong, detectable effects, even if we know they exist and occasionally can discover smaller ones.

The mantra that we chant as analysts is that talent trumps everything and that most of the stories of heroism and mental fortitude are narratives written by the winners. However, home-field advantage is perhaps the most obvious area where we see something resembling a psychological effect, or at least an effect that is not captured by our typical models of baseball players and ballgames. It is clear that something about being the home team trumps talent in a way that is mathematically equivalent to letting the away team's best player compete for the home team.

The reason *why* home teams have an advantage is less clear. Do they feel more at home and so perform better? Does the crowd excite the home team or distract the road team? Do they know better how the stadium plays? Are they simply more comfortable at home? All of these explanations seem possible, and we could give a number of plausible explanations. Finding out why the home team wins more often could open the doors to measuring at least one area where psychology has an impact in baseball. Everybody knows that baseball players are not computers, let alone Strat-O-Matic cards. The mainstream media certainly dramatizes the purported impact of psychological effects on players, but there must clearly be some effect if the home team wins more often.

The first step is to figure out *what* exactly home teams are doing better. By determining which statistics show the biggest home-field advantage, we can figure out what exactly the home teams are doing to their opponents to consistently win more often than they lose. In this article I will discuss home-field advantage, asking *what*, *when*, *where*, and *how* and hopefully figuring out *why* home teams win more often. The first step is to explore how home and away teams distribute their runs across games, to see if this provides a sense of when home-field effects are the strongest.

SCORING BY INNING

Home-field advantage may come from the effects of comfort and familiarity, or it may come from the psychological effect of crowd support. If the effects come primarily from comfort and familiarity, we would expect that home teams would have an even more distinct advantage in early innings. If the effects

are primarily psychological, one would expect that home teams would have an even more distinct advantage in late innings, when the crowd may put them on top.

The percent difference in runs scored by the home team as compared with the away team by inning is listed below. I ignored the ninth and any extra innings, because the home team stops scoring when they take the lead in extra innings or in the ninth inning, and the home team frequently does not bat in the ninth inning at all.

| Inning | Percentage of More Runs at Home |
|--------|---------------------------------|
| 1 | 17.2 |
| 2 | 8.5 |
| 3 | 11.1 |
| 4 | 6.5 |
| 5 | 9.6 |
| 6 | 7.5 |
| 7 | 8.0 |
| 8 | 7.7 |

The home teams gain much of their advantage in the first inning and enjoy a greater home-field advantage in the second and third innings than in the fourth through eighth innings. This implies that home-field advantage is primarily about comfort and adjusting to surroundings.

It seems that, if comfort in familiar surroundings is a significant factor in home-field advantage, the effect of the first-inning run differential would be particularly strong in the first game of the series. However, this does not appear to be the case.

| Inning | Percentage of More Runs at Home | | | |
|--------|---------------------------------|--------|--------|--------|
| | Game 1 | Game 2 | Game 3 | Game 4 |
| 1 | 16.5 | 19.7 | 16.3 | 10.7 |
| 2 | 6.2 | 12.2 | 7.7 | 4.8 |
| 3 | 11.1 | 10.7 | 11.0 | 12.1 |
| 4 | 7.5 | 6.3 | 5.7 | 6.6 |
| 5 | 12.8 | 8.9 | 6.2 | 9.8 |
| 6 | 10.0 | 7.5 | 6.0 | 3.3 |
| 7 | 8.2 | 6.6 | 8.4 | 13.7 |
| 8 | 9.9 | 8.1 | 4.4 | 8.6 |

The effect of extra run-scoring early—particularly in the first inning—seems to hold throughout the series. This could be an indicator that players need to readjust to their surroundings each game when on the road, or it could be an indicator that adjustments starting pitchers make to the mound while on the road explains a large portion of home-field advantage.

Determining who on the diamond is significantly affected by home-field advantage is an important step in studying it. Knowing that home-field advantage

seems particularly strong early in the game, regardless of series length, can be helpful. Consider this as we discuss individual statistics below.

ADVANTAGE BY STATISTIC

The Four True Outcomes. There are multiple individuals who play a role in the outcome of a plate appearance. First, the pitcher throws to the batter, and the batter either does or does not swing. If he does swing, he may or may not hit the ball. If he hits the ball, it may or may not be a fair ball in the field of play. It has been well established that pitchers have little control over what happens when the ball is in the field of play—pitchers primarily control walks, strikeouts, and home runs, and the rest is mostly a product of the defense and the hitter. In this section, I will discuss what happens when the ball is *not* in the field of play, to see how much of home-field advantage depends on pitching. All data are from cumulative major-league totals from 1998 through 2008, unless otherwise indicated.

Strikeouts and Walks. Batters struck out in 16.35 percent of their plate appearances at home from 1998 through 2008 and in 17.30 percent of their plate appearances on the road. Batters received unintentional walks in 8.38 percent of their plate appearances at home and in 7.80 percent of their plate appearances on the road. Both pairs of numbers are statistically significant at the 99.9 percent level. This immediately indicates that a home-field advantage occurs within the strike zone. Somewhere between when the pitcher starts his windup and when the batter swings, home teams already gain an advantage over road teams.

Home Runs. Batters hit home runs in 3.22 percent of their at-bats at home and in just 3.07 percent of their at-bats on the road. This is also significant at the 99.9 percent level. Home teams are able to hit for more power than road teams.

I selected strikeouts, walks, and home runs as the initial tests, because they indicate that the pitcher is involved. The significance of home runs, which pitchers control less than they do walks and strikeouts, indicates that the hitter as well must be doing something better at home. However, without any more information, it is difficult to tell if the walks and strikeouts are only the products of home effects on hitters. For instance, it may be that, given enough time to prepare himself to

 SWARTZ: Home-Field Advantage

pitch, the pitcher can overcome any disadvantage of being on the road while the hitter has an advantage at reacting to the baseball when at home. In other words, it is possible that travel or staying in a hotel dulls hitters' reaction times but does not impede the pitcher's effectiveness. That is why I now introduce the fourth true outcome—the neglected one on which fielders also have no effect.

Hit by Pitches. In every 1,000 plate appearances, home hitters were hit by 9.41 pitches and road hitters were hit by 9.09 pitches. This is a statistically significant difference ($p = .016$). While some hitters may be better than others at dodging inside pitches that are out of the strike zone, few can actually lean into the ball better. That hitters at home are hit more than hitters on the road indicates that some of the home-field advantage is affecting the pitcher. Getting hit by pitches is a persistent skill for batters, but it primarily derives from hugging the plate and not dodging inside pitches. Unless hitters hug the plate much more at home—and unless this effect somehow dwarfs any extra reaction time allowing them to choose to dodge pitches at home—chances are that this effect comes down to pitchers' aim being worse on the road. While some of this may be the effect of umpires tending to award the base to a home batsman instead of ruling he made no effort to avoid the pitch, the 3.5 percent increase in the home team's being hit by pitches is probably representative of a real difference generated by home-field advantage.

Balls in Play. When a ball is hit into play, defense becomes a factor. Some success on balls in play is the effect of how well the batter hit the ball, but much of it is also a product of defense. Looking at balls in play provides the first clue as to how defense plays a role in home-field advantage.

Batting Average on Balls in Play. Home teams had a .301 batting average on balls in play (BABIP) during the period 1998–2008, and road teams had a .295 BABIP. Furthermore, when you factor in errors, home teams reach base at a .316 clip on balls in play (or fail to reach base on 68.4 percent of balls in play), and road teams do so at a .310 rate (and so fail to reach on 69.0 percent of balls in play). When you factor in double plays, defenses at home record .720 outs per ball in

play, and defenses on the road .713. All of these differences are statistically significant at the 99.9 percent level. It is clear that, at home, batters are able to reach safely more often. It is not clear how much of the difference in outs on balls in play is hitting and how much is fielding, so, for some clues, it may be useful to look at some indicators of defense.

Double Plays. Hitters ground into double plays in 2.92 percent of their balls in play at home and in 2.94 percent of their balls in play on the road. This is *not* a statistically significant difference. At first, that sounds like fielding may not be playing a significant role in home-field advantage, but then you realize that home teams have higher OBP than road teams (.342 versus .330), so they have more opportunities to bat with a man on first base. When I approximate opportunities—by looking at the number of singles, walks, batters hit by pitches, and batters reaching base on errors—that home and away teams have, the difference suddenly becomes statistically significant. The ratio of double plays at home to the sum of singles, walks, batters hit by pitches, and batters reaching on errors is 7.62 percent, and the ratio on the road is 7.96 percent. Although some of this may be the hitters' fault for swinging at bad pitches or making weak contact, this does seem to imply that defense is better at home. As some of this may be umpires calling away-team baserunners out on double plays more often, it is useful to check on other aspects of fielding too.

Reaching on Errors. Official scorers, or so the accusation goes, give the home team credit for hits more often while recording as errors close calls involving road players. This may or may not be true, but it is highly doubtful that the reverse is true. Therefore, that home teams reach on error in 1.46 percent of their balls in play and road teams on 1.42 percent implies that players on the road are fielding more poorly. The ratio of infield hits to the sum of infield hits and times reached on error is 70.3 percent for home teams and 69.8 percent for road teams. This is also not a statistically signif-

icant difference, which further suggests that official scorers are probably not all that biased. To me, this suggests that chances are that defenses perform worse on the road.

Doubles and Triples. Another potential source of home-field advantage is that outfielders at home know their parks better—they know how the ball bounces off the wall, etc. Many triples are the result of balls that get away from outfielders. Therefore, it should not be surprising that the rate of triples per ball in play is 7.59 percent for home teams and only 6.44 percent for road teams. That is a *huge* and statistically significant difference. In fact, the rate of doubles on balls in play for home teams is 6.81 percent, and 6.74 for away teams, a difference that is not even statistically significant (though it is weakly significant). The reason is that so many extra-base hits get away from outfielders and turn into triples; the ratio of doubles to triples is 9.0 for teams at home and 10.5 for those on the road.

Shutouts. Pitchers pitch complete-game shutouts far more often at home than on the road. Per every 100 games started, the home-team pitcher will throw 1.68 complete-game shutouts and the road-team pitcher will throw 1.18. Home teams win only 54 percent of total games but record 59 percent of the complete-game shutouts.

Unearned Runs. It may seem like much of this could still be psychological, but I believe that a large portion of it is not. Some of the reasons will become clearer later in this article. One indicator that much of home-field advantage is not psychological is unearned runs. If psychology is playing a significant role, then chances are that it will cause pitchers to be more prone to frustration and let problems escalate. One way to test this theory is to check the ratio of unearned runs to the times that hitters reach base on errors. If pitchers are less likely to be collected on the road, they will probably let more of these runners score. In fact, the ratio for home teams is 0.98 and 0.99 for road teams. This is a very small difference. In fact, from 1998 through 2008, the home team had a higher ratio than did the road team six times out

of eleven years and the road team had a higher ratio than did the home team five times. It does not seem like psychology is playing a role here. It's not that road pitchers are allowing crises to escalate more; they are just finding themselves in more crises.

Stolen-Base Percentage. Home teams are more successful in their stolen-base attempts, nabbing bags successfully in 71.2 percent of their attempts, while road teams are successful in 69.4 percent of theirs. This is a strong statistically significant difference. It's tough to know whether it is due to catchers reacting more slowly, baserunners running faster, or umpires being swayed by the home crowd when the call is close. For now, it's enough to note that there is a clear tendency to steal more successfully while at home.

Batted Balls. A little bit about home-field advantage can be inferred from batted-ball statistics. Looking at data from 2005 through 2008, we can see that home teams hit more line drives (19.0 versus 18.6 percent) and fewer ground balls (45.1 versus 45.5 percent) than do away teams; they hit about the same number of fly balls. The differences in line drives and ground balls are both statistically significant. As ground-ball rate is something that pitchers control strongly, this also suggests not simply that pitchers enjoy the effect of home-field advantage but that they affect it. The batter plays a large role as well; this is clear from the statistically significant difference in popups per fly ball at home versus away (21.8 versus 22.2 percent), as infield-fly rate is something that batters affect more than pitchers do. Hitters do a little bit better on each type of batted ball as well. Look at the slash stats for each type of batted ball:

| Batted-Ball Type | Home | Away |
|------------------|-----------------|----------------|
| | AVG/OBP/SLG | AVG/OBP/SLG |
| Ground balls | .248/.248/.270 | .239/.239/.259 |
| Fly balls | .224/.218/.597 | .218/.213/.578 |
| Line drives | .733/.731/1.105 | .732/.729/.997 |

It is clear that home-field advantage affects each type of batted ball. It does not affect the batting average on line drives very much, but it certainly does affect the isolated slugging average on them. There are more triples than doubles, and there are a good deal more home runs as well (2.5 versus 2.0 percent). The home-run rate on fly balls

SWARTZ: Home-Field Advantage

© THE PHILLIES / PHOTO BY MILES KENNEDY



Cole Hamels shut out the Dodgers in Los Angeles on June 4, 2009, sending the Phillies' home-field "advantage" that season to -30 percent. During the period 2004–2008, the Phillies had the lowest overall home-field advantage in MLB, but don't jump to conclusions. Read on.

is also a bit higher for home teams (9.2 versus 8.9 percent), and the rate of triples on fly balls is higher too (1.13 versus 0.95 percent). Ground balls find their way through holes more, leading to more singles (22.6 percent versus 21.9 percent of ground balls), more doubles (2.02 percent versus 1.89 percent), and more triples (.112 percent versus .086 percent). The relatively larger jumps in doubles and triples on ground balls indicate that a lot of home-field advantage is knowing how to play the bounces in your home ballpark.

It appears that home teams do pretty much everything better than road teams do. They hit the ball more, they hit the ball harder, they throw more strikeouts, and they surrender fewer walks. Home teams prevent triples more frequently and record double plays more often. They record more outs on balls in play, and they make fewer errors.

The extra home-field advantage in the first three innings strongly suggests that comfort and familiarity are significant to home-field advantage. The

large effects within the strike zone indicate that the mound and the batter's eye are things that pitchers and hitters are more comfortable with at home. The extra triples surrendered on the road strongly suggest an impact that ballpark familiarity has on home-field advantage. The extra stolen bases indicate that reaction time may also be playing a role. All of these numbers together indicate a large significance of mental aspects that are not quite emotional but that affect things like eyesight, reaction time, and learning about the home turf. That pretty much answers the question of *what* home teams are doing better.

Now that we know *what* home teams are doing better, our next step is to check differences between teams in terms of how much better they perform at home and to see if we can tell *who* has larger home-field advantages.

TEAM DIFFERENCES

On June 4, 2009, Cole Hamels shut out the Dodgers, who at that time boasted the best record in the National League. More impressively, this feat came in Dodger Stadium. As mentioned in the previous section, even though road teams scrape out a win in 46 percent of ballgames, they put together only 41 percent of all complete-game shutouts. What was special about Cole Hamels? Was it something about the Phillies? The first clue might have been that, at that point in the season, the Phillies had a 20–6 record on the road but were only 12–14 at home. The average difference between home winning percentage and away winning percentage is 8 percent; after Hamels's shutout, the Phillies sat at –30 percent!

This did not seem to surprise the Philadelphia media all that much. The Phillies had a regular-season home-field advantage of only 4.9 percent in 2008, and in the previous four years they had home-field "advantages" of 6.2, –3.7, 4.9, and –2.5 percent. Relative to how they performed on the road, the Phillies played much worse at home than did other teams. Phillies manager Charlie Manuel had an explanation for the team's 2009 performance at the ready—the fanfare surrounding the World Series celebrations was distracting them. There had been ceremony after ceremony through the first several weeks of the season, and, Manuel supposed, this was keeping his players from concentrating at home. Last year, Jimmy Rollins said that the Phillies fans had intimidated the home nine, and Rollins even went so far as to call them "frontrunners," immediately giving every cable

The Baseball Research Journal, Fall 2009

sports show the hottest topic in the world to run with for a few days. Would the Phillies fans boo Rollins when he came back to town? Were the Phillies fans and their anti-Santa agenda too much? Others suggested that the Phillies were a fly-ball pitching staff so were more vulnerable to the homer-friendly dimensions of Citizens Bank Park.

What complicated this speculation was that the Phillies' 2 percent home-field advantage for 2004–2008 was contradicted by their 7–0 playoff record at home in their World Series run in 2008. They went only 4–3 on the road in the playoffs, meaning that their home-field advantage for the playoffs was 43 percent, more than five times the league average home-field advantage and more than twenty times their advantage over the previous five seasons. Was there something different about the playoffs?

Alternatively, perhaps there was nothing special about either the Phillies in the regular season or the Phillies in the playoffs. Consider the following possibility—perhaps no team has a larger home-field advantage than any other team. That sounds impossible, right? Look at the home-field advantage in the period 2004–2008 for every MLB team:

| Team | Home-Field Win % Minus Road-Win % |
|--------------|--------------------------------------|
| Phillies | 1.98 |
| Orioles | 3.32 |
| Tigers | 3.95 |
| Angels | 3.95 |
| Padres | 4.32 |
| Cubs | 4.56 |
| Giants | 4.84 |
| Marlins | 5.31 |
| Mets | 5.43 |
| Indians | 6.68 |
| Diamondbacks | 6.91 |
| Royals | 7.11 |
| Cardinals | 7.55 |
| Nationals | 7.99 |
| White Sox | 8.50 |
| Athletics | 8.52 |
| Braves | 9.14 |
| Reds | 9.14 |
| Dodgers | 9.88 |
| Rangers | 9.88 |
| Pirates | 10.73 |
| Yankees | 10.86 |
| Twins | 11.48 |
| Astros | 11.50 |
| Mariners | 12.16 |
| Blue Jays | 13.47 |
| Rockies | 13.94 |
| Red Sox | 14.32 |
| Brewers | 15.70 |
| Rays | 17.66 |

The Phillies had the smallest home-field advantage in the major leagues over that time. There was a huge difference between the Phillies and the Rays, who had a winning percentage that was nearly 18 percentage points higher at home than on the road. However, we would not expect that every team had a home-field advantage of exactly 8 percent, even if no team had any special home-field advantage; some teams would have some luck at home, or some luck on the road, and the numbers would change. So, I checked the correlation between home-field advantage one year and the next for 2004–2008—the correlation was only 0.05. That is not statistically significant, not even close.

Instead of running only a simple year-to-year correlation, I ran an AR(1) intraclass correlation (with some help from Eric Seidman and Russell Carleton). Intraclass correlation is similar to year-to-year correlation but gives some extra credit to the correlation if a team performs especially well at home in 2006 and 2008 but not in 2007. It looks at each team in general rather than at two consecutive seasons. The intraclass correlation was also only 0.05, which, again, is not statistically significant.

From this, it seems unlikely that any team has a significantly different home-field advantage than any other team, at least when looking at this recent five-year span. Although there is clearly a distribution of home-field advantages that vary from team to team, that is exactly what should happen if no team has a larger home-field advantage than another. If this theory holds true, any team should be expected to have an 8 percent home-field advantage next year, on average, regardless of what their home-field advantage was this year. It will not be exactly 8 percent but will just as likely be above 8 percent as below it.

These five years made sense as an initial starting point for looking at home-field advantage, because team composition does not change as drastically over five years as it does over a longer span. However, it is worth checking whether this does hold true over a span. Is the smaller sample size blurring an effect? I gathered the home-field advantage numbers for every team during 1998–2008 (the eleven-year time period in which there were 30 teams), and, using that data, I attempted to discover whether there was any persistence to home-field advantage; the correlation stayed low and insignificant, though it did rise to .102. Also, the intraclass correlation went up only to .104, which is weakly statistically significant and slightly more noticeable. It's pretty clear that, if there is any persistence to home-field advantage, it must have a very small effect.

 SWARTZ: Home-Field Advantage

Numerically, even if a team posts a home-field advantage of 18 percent one year, you probably would expect them to have a home-field advantage of less than 9 percent the following year. As we will see below, even that may be too high.

Although the correlations are low, I thought it would be important to try some other angles to see if we can learn more about team-specific home-field advantage, if such a thing exists. The thesis that I am generating here is that the variance we observe in home-field advantage is exactly what we would expect if every team had the same skill at creating a home-field advantage. Therefore, it makes sense to check a chi-squared test to see if the variance is in fact what we would expect. A chi-squared test allows us to compare the expected variance we would expect if every team had an equal home-field advantage against what the observed home-field advantage was for the period 1998–2008.

To generate the expected variance, I found the winning percentage of each team over the eleven-year span and calculated the variance of their expected home winning percentage minus away winning percentage, to see if their home winning percentage was about 4 percent above their overall winning percentage and if their away winning percentage was 4 percent below it. The expected variance would have been 0.0166 according to this estimate; the actual variance was 0.0195. The chi-squared statistic is therefore 34.1, which is statistically insignificant. So, we fail to reject the hypothesis that there is no team-to-team difference in home-field advantage. In other words, the variance was only slightly above what we would expect if there was no such thing as team-specific home-field advantage.

Despite this result, it's pretty clear that each test shows a positive but statistically insignificant effect of team-specific home-field advantage—which means that perhaps it does exist on some level. Over the eleven-year span, there is one team that has by far the largest home-field advantage of any club in MLB—the Colorado Rockies. They have a winning percentage that is 15.4 percent higher at home than on the road. This becomes even clearer when we look at the following chart, in which I plotted two things:

the expected number of teams that would have approximately x percent of a home-field advantage over eleven years if there were no such thing as home-field advantage;

the number of teams that have approximately x percent of home-field advantage for 1998–2008.

This makes it even clearer how anomalous the Rockies are.

Notice that one would probably expect to see at least one team around 2 percent, even though every team would expect to be at about 8 percent on average. What you would not expect is a team at 15.4 percent, as the Rockies are. The explanation for why the Rockies are an anomaly has been given countless times; the overwhelming likelihood is that, because of the difficulty in adjusting to the altitude and in getting accustomed to playing at that altitude, the Rockies gain an advantage over their opponents. Do these results reflect the Rockies' ability to adjust to their altitude? Or do they reflect an inability of the visiting teams to adjust to normal conditions? The answer is not clear. However, it appears that the Rockies are a different breed altogether, and they seem to break the model. Consider the year-to-year correlation for 1998–2008 without the Rockies—that clocks in at .065, which is nowhere near statistically significant. The intraclass correlation of .068 among the 29 non-Rockies teams is even more insignificant than the .104 intraclass correlation with the Rockies included in the sample; it looks more and more like home-field advantage is not team-specific for the other 29 teams. Looking at it from another angle makes this even clearer.

When the Rockies are excluded, the expected variance of home-field advantage as described above would be .0160. Instead, it was .0138—even less (though insignificantly so) than we would expect if the outcomes were random. The Rockies truly are the anomaly.

Therefore, when analyzing home-field advantage, we should remember that every team except the Rockies has pretty much the same home-field advantage. Claims that crowds in different ballparks or that certain kinds of teams tend to generate a home-field advantage are below the threshold of statistical measurability. It is probably true that, if you get a ground-ball pitcher or a power hitter in a small ballpark, you are likely to increase your home-field advantage some, but these effects are probably extremely minor. It takes a long time for the difference between two similar percentages to show any kind of consistent trend, so we should be wary when approaching, after the fact, explanations for why certain teams have home-field advantages. There has been a tendency historically for domed home teams to do well in domed stadiums, for example, but most similar explanations will not hold water.

Although this result is perhaps somewhat shocking, it simplifies some of our analysis of home-field advantage for the rest of this article. We can now look for

trends without worrying that our data is contaminated with large team-specific effects. After delving into the question of what home-field advantage is and *who* does or does not have it, we now need to consider *where* it might be the strongest. Specifically, what kinds of games exhibit the largest home-field advantages? We examine divisional matchups and both intra- and interleague matchups in an attempt to learn more about home-field advantage. In doing so, we know that we do not need to worry about certain teams (other than the Rockies) tricking us into reaching inaccurate conclusions, since it does not appear that the other 29 teams in MLB exhibit or enjoy any special home-field advantage.

DIFFERENT TYPES OF GAMES

Even though luck can make a team look like they are particularly good or bad at home, the 29 teams have about an 8 percent home-field advantage, plus or minus a little statistical noise. However, that does not mean that every game has about an 8 percent home-field advantage. In other words, if we know that the Yankees would beat the Dodgers in 52 percent of games they played against each other, we cannot infer that the Yankees would beat the Dodgers in 56 percent of the games at Yankee Stadium and the Yankees would beat the Dodgers in 48 percent of the games at Dodger Stadium. Certain types of games have a different degree of home-field advantage.

I took the 27,613 regular-season games from 1998 through 2008 that did not result in a tie and divided them into a variety of subsets to evaluate the different magnitudes of home-field advantage. This is important to study because, if we can understand *where* home-field advantage exists, we can better understand *why* home-field advantage exists and *how* it comes to be.

Home-field advantage is commonly attributed to the rigors of travel, which hinder the road team, and to the home team’s familiarity with the ballpark. Therefore, I took games played among teams within the same division and compared them to games played among teams in different divisions, since intradivision matchups occur more frequently and usually require less travel. Home teams win just over 53.3 percent of intradivision games, which means that they have a 6.7 percent home-field advantage. In contrast, interdivision games showed an 8.7 percent home-field advantage. Although this seems like a large gap, it remains a little shy of statistical significance over the period 1998–2008. The problem with tests of statistical significance for this type of analysis is that, to find anything conclusive among minor differences, we

would need to review many years to be able to pinch the variance enough that differences in home-field advantage were statistically significant. Doing so would risk losing meaning, by dipping into different eras where effects may be different. Instead, it seems safe to say that, since the confidence interval of intradivision games (52.4–54.3 percent) and the confidence interval for interdivision games (53.6–55.1 percent) barely overlap, intradivision games probably involve smaller home-field advantages. This may be either because road teams are more familiar with the stadiums of their most frequent opponents or because road teams suffer less when they travel shorter distances. In what follows, there will be some evidence of both of these factors.

I also separated the home-field advantage for interleague games and for intraleague games as well as for interdivision games within the same league. Interleague games demonstrate a 10.1 percent home-field advantage, far greater than for intraleague games, which show a 7.4 percent home-field advantage, although the difference is still not quite statistically significant. Specifically, interdivision games within the same league have a home-field advantage of 8.4 percent. This indicates that distance effects as well as familiarity effects may be in play.

In summary, this means that we have the following home-field advantages:

| | Home-Field Advantage |
|---------------------------------|-----------------------------|
| Same division, same league | 6.68 (11,117 games) |
| Different division, same league | 8.39 (12,854 games) |
| Different league | 10.14 (2,742 games) |

Of course, interleague games may also have an extra home-field advantage, since the DH is in place only in AL ballparks (giving an added advantage to AL teams who construct their roster with this rule in mind) and not in NL ballparks (giving an added disadvantage to AL teams who construct their roster with a DH). Therefore, it is worth looking at different kinds of interleague games to determine the magnitude of this effect.

First I compared the home-field advantage in interleague games among teams in the corresponding division in the opposite league (e.g., NL Central versus AL Central) to interleague games among teams in different divisions. The results came out rather clean; home-field advantage in the corresponding-division interleague games was only 7.95 percent, and home-field advantage in different-division interleague games was a whopping 13.42 percent. It certainly seems that familiarity may be in play, since the home-field advan-

SWARTZ: Home-Field Advantage

tage is smaller for same-division games within the same league (6.7 percent) than it is in corresponding-division games in different leagues (7.9 percent), and it is also smaller for interdivision games within the same league (8.4 percent) than it is for different-division interleague games (13.4 percent).

Justification of the theory that familiarity is playing a role in home-field advantage comes from this. When I looked at “interleague rivals,” the home-field advantage came out very small. Since interleague rivalries have changed over time, it was not easy to define who was encompassed by this term. To determine what these rivalries were, I simply found the 14 NL teams that had played the 14 AL teams the most frequently (Angels and Dodgers, White Sox and Cubs, Rays and Marlins, Indians and Reds, Rangers and Astros, Mets and Yankees, A’s and Giants, Royals and Cardinals, Mariners and Padres, Twins and Brewers, Blue Jays and Nationals, Red Sox and Braves, Tigers and Pirates, and Orioles and Phillies). In those games, the home-field advantage is only 4.4 percent, even less than among teams in the same division in the same league. It certainly appears that familiarity is playing a role, since these teams play each other more frequently than do teams in other interleague matchups, although the lower home-field advantage here could also be attributed to the shorter travel distance.

The argument that this might be the effect of familiarity rather than distance strengthens when we analyze the three pairs of teams who play in the same metropolitan area—Yankees and Mets, Dodgers and Angels, Giants and Athletics, and Cubs and White Sox. Those matchups have a 11.8 percent home-field advantage, though in a sample of just 254 games. This also highlights another important fact, which is that crowd support is unlikely to be the primary cause of home-field advantage, since one would expect a smaller home-field advantage in a mixed-fan crowd. The same-city argument for familiarity over distance is not very conclusive, as the confidence interval for those types of games is really large (50.9–64.9 percent), but it does point to distance or familiarity, rather than crowd effects, as a factor, since even this large interval rules out the possibility that there is no home-field advantage in the same metropolitan area.

As these interleague-rival teams do not play each other any more often than do teams in different divisions in the same league, it seems that here too distance may be playing a role, since the home-field advantage is almost twice as large (8.4 versus 4.4 percent) in games between teams in different divisions of the same league as it is between interleague rivals.

Another argument for the effect of distance on home-field advantage is that games between teams that are in the same division but travel further show a larger home-field advantage than games between teams who do not travel as far. To define “further” I had to resort to a small trick—rather than determine the mileage between each of the 450 pairs of MLB cities, I gathered the degrees latitude and longitude for all 30 teams, and then used a formula provided by Tim Kniker for what he called “Great Circle Distance” to determine the distance between each pair of cities. The average distance in miles for teams within the same division was 597, which is the distance between Seattle and San Francisco. Games among teams within the same division who were less than 597 miles apart showed a home-field advantage of 4.2 percent, and for games between teams that traveled further than 597 miles it was 8.4 percent. That is as large as the home-field advantage among teams in different divisions of the same league (8.4 percent).

So, we have learned from studying where home-field advantage exists that both travel distance and ballpark familiarity are probably significant causes of home-field advantage. We found clear effects of familiarity, as interleague rivals do better (even when geographically distant) than other interleague teams in corresponding divisions, while the argument of distance being the primary determinant of home-field advantage is slightly weakened when we consider that same-city interleague-rival games show a larger home-field advantage than do other interleague-rival games. We also found clear effects of distance. For example, home teams within the same division win more frequently when the away teams have traveled further.

However, the differences in home-field advantage remain rather small. The difference between home-field advantage among intraleague games within the same division and between different divisions is less than 2 percent. Ignoring this and assuming that all games have an 8 percent home-field advantage will lead to your guessing wrong on only a couple of games more each year than you would have if you had known the small difference (in home-field advantage) between same-division and different-division intraleague matchups. Nonetheless, it gives us yet another insight into home-field advantage. Since travel seems to be playing a large part in home-field advantage, in the next section we will look at home-field advantage in different games within a series as well as with different series lengths. We will also consider whether off days and consecutive series at home or away play a role in home-field advantage.

GAME NUMBER AND LENGTH OF SERIES

Since distance traveled has such a clear effect on home-field advantage, it leads us to wonder if the process of traveling has an effect—through jetlag and the like. This naturally leads us to ask whether home teams would have especially large home-field advantages in the first game of the series, perhaps because the road teams were adjusting after travel. In fact, this is not the case at all, as we see when we look at home-field advantage in different series games during the current thirty-team era.

Home-Field Win Percentage by Series Game

| | |
|----------------|--------------------|
| First game | 53.8 (8,720 games) |
| Middle game(s) | 54.8 (9,365 games) |
| Last game | 53.1 (8,719 games) |
| Overall | 53.9 |

The middle games of the series are the ones that show the most pronounced home-field advantage, and by a statistically significant amount. The last game of the series does show the least home-field advantage, which is an indicator that the road team's need to adjust to surroundings may be a part of home-field advantage. However, that the first game has a smaller home-field advantage than the middle games is shocking, and it makes little sense when taken at face value. I still do not have a definite answer as to why this is true. However, I will present some clues as to what is happening.

The term "middle games" obviously involves the conflation of a few different things, so let's start by looking at home-field advantage by series length. In the period 1998–2008, there have been series that have varied from one game to five games. Here is the home-field advantage in each series length:

Home-Field Win Percentage by Series Length

| | |
|-------------------|---------------------|
| One-game series | 56.0 (91 games) |
| Two-game series | 50.6 (1,586 games) |
| Three-game series | 54.4 (18,986 games) |
| Four-game series | 53.4 (5,940 games) |
| Five-game series | 57.3 (110 games) |

Two-game series have a statistically significant smaller home-field advantage, and three-game series have statistically significant larger home-field advantages (although that is probably only because interleague series make up 14 percent of all three-game series instead of only 10 percent of all series). However, that two-game series show less home-field advantage could be a clue.

Breaking things down game by game within a series, we can start to see the trend a little better.

Although it does not seem to be a significant clue, I will also include the average home score/away score because it may help readers discover something that I have not. Keep in mind that the home team does not bat in the bottom of the ninth if they are winning after the top of the inning, so they will have smaller run totals than you would otherwise expect.

Game Home-Field Win Percentage

| | |
|--------|--|
| 1 of 1 | 56.0% (91 games; runs home-away: 4.89–4.89) |
| 1 of 2 | 51.3% (1,586 games; runs home-away: 4.79–4.88) |
| 2 of 2 | 49.8% (1,586 games; runs home-away: 4.77–4.87) |
| 1 of 3 | 54.3% (6,329 games; runs home-away: 4.90–4.69) |
| 2 of 3 | 55.1% (6,329 games; runs home-away: 4.90–4.72) |
| 3 of 3 | 53.7% (6,328 games; runs home-away: 4.72–4.69) |
| 1 of 4 | 53.0% (1,485 games; runs home-away: 4.86–4.73) |
| 2 of 4 | 53.0% (1,485 games; runs home-away: 4.93–4.95) |
| 3 of 4 | 55.1% (1,485 games; runs home-away: 4.79–4.67) |
| 4 of 4 | 53.2% (1,485 games; runs home-away: 5.08–4.94) |
| 1 of 5 | 45.5% (22 games; runs home-away: 5.23–5.77) |
| 2 of 5 | 63.6% (22 games; runs home-away: 5.05–4.91) |
| 3 of 5 | 59.1% (22 games; runs home-away: 5.77–5.36) |
| 4 of 5 | 63.6% (22 games; runs home-away: 6.14–5.22) |
| 5 of 5 | 54.5% (22 games; runs home-away: 5.09–5.36) |

None of these samples is large enough to generate statistical significance for any individual series game, but it's plausible that the effect may occur the day *before* getaway day. If it does, is there something about travel days and offdays that played a role? They might give teams the opportunity not only to settle themselves earlier in a different city but also to reset their rotation.

I checked whether home teams had a larger home-field advantage if they had an offday before the first game of the series. This effect was positive though not significant: 54.1 percent versus 53.6 percent (in 3,064 and 5,656 games, respectively). However, there was a statistically significant effect of having an offday on the road before the game; away teams won 47.6 percent of the 3,060 games when they had an offday the day before the first game of the series but won only 45.4 percent of the 5,660 games when they had no offday the day before game one. There is probably some travel effect on the first game but also some other factor that is playing a role toward the beginning of the series and making it easier for away teams to win.

I checked the effect of having an offday two days before game two of a three-game series. Interestingly, this helped home teams by a statistically significant amount: They won 56.8 percent of the 2,564 games in game two of a three-game series if they had an offday

SWARTZ: Home-Field Advantage

before the series began, and only 54.0 percent of the 3,764 games if they did not. The run totals demonstrate this further, as the average home team outscored their opponent in game two of a three-game series—by a score of 4.95–4.60 if they had an offday before the series but by a score of only 4.87–4.80 if they did not have an offday before the series.

Away teams, however, lost more often when they had an offday two games before the series, but by a small amount: 55.5 percent for the 2,569 game twos of three with an offday two days before, and 54.9 percent for the 3,759 game twos of three with no offday two days before. This effect does seem quite strong when looking at run totals though, as they were outscored 4.85–4.61 in game two of three if they had an offday before the series, and only 4.94–4.79 if they did not.

For four-game series, there is a huge effect in the third game. This occurs primarily if the away team had an offday before the series began. In four-game series when home teams had an offday before, they won 58.2 percent of the 273 game threes. When they did not have an offday before, they won only 54.3 percent of the 1,211 game threes. That is not quite statistically significant. They outscored their opponents 4.90–4.41 in game three of four if they had an offday before the series, 4.75–4.73 if they did not have an offday before.

However, what is statistically significant at the 95 percent level is that, if an away team has an offday before a four-game series, they lost game three 60.3 percent of the 290 game threes, but with no offday they lost only 53.8 percent of the 1,195 game threes. They were outscored 4.91–4.33 if they had the offday before the series, and were even, at 4.76–4.76, if they did not. This effect was even more extreme with an offday before a Thursday–Sunday series. Away teams lost 68.1 percent of the 144 game threes of four-game series that took place on Saturdays. This is statistically significant even at the 99.9 percent level.

My belief is that there is not only a travel-hangover effect but a different effect based on distance traveled, in addition to a “time away from home” effect. Home teams really do tend to do better in those middle games with an offday before the series, and away teams tend to do worse in middle games with an offday before the series. Although traveling earlier might help away teams get past jetlag during the earlier part of the series, it seems that, the longer the series goes, the more tired they get. I suspect that in the middle game they are still not fully recovered from travel and may also still suffer from being away from home, increasing the disadvantage for the away team in the middle of the series.

I also tried looking at actual travel distance. Recall that we found that intradivision games among teams who played closer together had a smaller home-field advantage. I decided to look at intradivision matchups for three-game and four-game series involving both closer than average distances and further than average distances.

Three-Game Series, Same Division, Less than 597 miles away
Home-Field Win Percentage

| | |
|--------|--------------------|
| Game 1 | 50.9 (1,266 games) |
| Game 2 | 55.7 (1,266 games) |
| Game 3 | 52.3 (1,266 games) |

Three-Game Series, Same Division, More than 597 miles away
Home-Field Win Percentage

| | |
|--------|--------------------|
| Game 1 | 54.8 (1,135 games) |
| Game 2 | 55.0 (1,135 games) |
| Game 3 | 53.2 (1,135 games) |

Four-Game Series, Same Division, Less than 597 miles away
Home-Field Win Percentage

| | |
|--------|------------------|
| Game 1 | 50.6 (391 games) |
| Game 2 | 51.4 (391 games) |
| Game 3 | 55.8 (391 games) |
| Game 4 | 49.6 (391 games) |

Four-Game Series, Same Division, More than 597 miles away
Home-Field Win Percentage

| | |
|--------|------------------|
| Game 1 | 55.2 (355 games) |
| Game 2 | 56.3 (355 games) |
| Game 3 | 56.6 (355 games) |
| Game 4 | 52.4 (355 games) |

The day-before-getaway-day effect is significant only for games played between teams who are close together. In fact, if we look at interdivision games, we will see similar effects for those interdivision games where teams happen to be closer than 597 miles (although this is not a large set):

Three-Game Series, Different Division, Same League, Less than 597 miles away
Home-Field Win Percentage

| | |
|--------|------------------|
| Game 1 | 52.3 (388 games) |
| Game 2 | 56.4 (388 games) |
| Game 3 | 52.3 (388 games) |

Three-Game Series, Different Division, Same League, More than 597 miles away
Home-Field Win Percentage

| | |
|--------|--------------------|
| Game 1 | 54.8 (2,656 games) |
| Game 2 | 54.8 (2,656 games) |
| Game 3 | 54.6 (2,656 games) |

COURTESY OF THE COLORADO ROCKIES



The Rockies had a winning percentage 15.4 percent higher at Coors Field than on the road during the period 1998–2008. That figure is anomalously high and makes the Rockies an outlier among MLB teams, the other 29 of which, over the long haul, have about the same home-field advantage, roughly 8 percent. The most common explanations for the Rockies’ success at home involve the altitude in Denver. Either opposing teams are hindered by it or the Rockies are especially good at adjusting to it—or some combination of both.

Although there are not many four-game series between teams less than 597 miles away but in different divisions, it is difficult to know whether a similar pattern would emerge whereby the day-before-getaway-day effect is significant only for teams that play in cities near each other.

That this effect holds only for teams playing closer together suggests that it depends on either mode of travel or travel distance. Perhaps something about the last game of the series shifts the advantage to the road team, but they struggle through the first couple of games. However, it may be that much of the effect on the first day is mitigated if the team traveled to the game on a bus rather than by plane, which would lead to jetlag. By the second game, though, regardless of the mode of travel, the effect of staying in a hotel tends to wear on players. It sounds a bit far-fetched, but there probably is something far-fetched that does explain this effect.

This could be a psychological issue as well, whereby road teams can generate the adrenaline to overcome some home-field advantage in the first and last game of the series but lose their steam in the middle games. I do not know for sure, but these effects generally point either to an effect on road teams that helps them early and late in the series or alternatively to a negative effect on home teams that hurts them both early and late in the series so that home-field advantage in the middle games appears greater. In reality, there may be several effects in play. Exhaustion from

traveling longer distances and time away from home might lead to this bizarre outcome.

I wondered if the day of the week plays a role in home-field advantage, but what a review of outcome by day of the week suggests is that the home team’s edge seems mostly reflected by series length:

| | Home-Field Win Percentage |
|-----------|--------------------------------------|
| Monday | 53.6 |
| Tuesday | 54.0 |
| Wednesday | 54.0 |
| Thursday | 53.3 |
| Friday | 53.5 |
| Saturday | 54.7 |
| Sunday | 54.2 |

I suspected that the reason that the last game of the series may have smaller home-field advantage is that it is more likely to be a day game, and therefore I suspected that road teams would have less of a disadvantage. However, Sunday games have larger home-field advantages than do Thursday games—which would probably not be true if night games are a cause of home-field advantage.

A natural question that many have asked is whether long homestands or road trips have an effect on home-field advantage. This does not seem to be all that significant. Consider the home winning percentage by length of homestand:

SWARTZ: Home-Field Advantage

| | Home-Field Win Percentage |
|------------|--------------------------------------|
| 1st game | 53.9 |
| 2nd game | 54.6 |
| 3rd game | 53.7 |
| 4th game | 53.2 |
| 5th game | 54.3 |
| 6th game | 54.5 |
| 7th game | 53.9 |
| 8th+ games | 53.2 |

Now consider the away winning percentage by consecutive games on the road:

| | Road Win Percentage |
|------------|--------------------------------|
| 1st | 45.8 |
| 2nd | 45.6 |
| 3rd | 46.7 |
| 4th | 48.0 |
| 5th | 46.8 |
| 6th | 44.2 |
| 7th | 45.3 |
| 8th+ games | 45.5 |

Road teams do a little better early in a road trip than late, but only by a small margin.

This effect certainly appears in the current thirty-team era in MLB, but demonstrating whether it is a real effect could be helped or damaged by looking at a larger sample. Consider two-, three-, and four-game series from 1980 to 1997:

| Game | Home-Field Win Percentage |
|-------------|--------------------------------------|
| 1 of 2 | 55.2 (1,937 games) |
| 2 of 2 | 53.2 (1,935 games) |
| 1 of 3 | 53.8 (7,583 games) |
| 2 of 3 | 54.9 (7,581 games) |
| 3 of 3 | 54.0 (7,575 games) |
| 1 of 4 | 54.9 (2,483 games) |
| 2 of 4 | 53.1 (2,488 games) |
| 3 of 4 | 52.3 (2,488 games) |
| 4 of 4 | 53.7 (2,487 games) |

The nearly 2,500 four-game series clearly no longer show any kind of middle-game effect. As many four-game series are between teams in different divisions, and these teams tend to be further apart, perhaps improvements in travel in recent years have eroded some effects that make home teams win more earlier in a series. However, in the more than 7,500 three-game series, we still see a slight effect in the middle

game. The effect is not quite statistically significant but does show up as a slightly more than 1 percent larger home-field advantage in the second game of a three-game series.

Even when we combine 1980–2009, we still do not quite get a statistically significant effect ($p = .083$):

| Game | Home-Field Win Percentage |
|-------------|--------------------------------------|
| 1 of 2 | 53.9 (2,788 games) |
| 2 of 2 | 52.4 (2,786 games) |
| 1 of 3 | 54.1 (14,372 games) |
| 2 of 3 | 54.8 (14,370 games) |
| 3 of 3 | 53.8 (14,363 games) |
| 1 of 4 | 54.2 (4,096 games) |
| 2 of 4 | 53.3 (4,101 games) |
| 3 of 4 | 53.3 (4,101 games) |
| 4 of 4 | 53.3 (4,100 games) |

When we examine box scores from 1954 through 2009, we get the following home-field advantage by series game:

| Game | Home-Field Win Percentage |
|-------------|--------------------------------------|
| 1 of 2 | 53.8 (6,399 games) |
| 2 of 2 | 53.0 (6,392 games) |
| 1 of 3 | 54.3 (21,245 games) |
| 2 of 3 | 54.4 (21,237 games) |
| 3 of 3 | 53.4 (21,232 games) |
| 1 of 4 | 54.3 (7,179 games) |
| 2 of 4 | 53.6 (7,180 games) |
| 3 of 4 | 54.0 (7,185 games) |
| 4 of 4 | 53.5 (7,182 games) |

From this data it appears that the statistically significant difference ($p = .024$) in the last game of three-game series has less of a home-field advantage.

When we examine box scores from the period 1954–1979, we get the following:

| Game | Home-Field Win Percentage |
|-------------|--------------------------------------|
| 1 of 2 | 53.8 (3,611 games) |
| 2 of 2 | 53.4 (3,606 games) |
| 1 of 3 | 54.8 (6,873 games) |
| 2 of 3 | 53.5 (6,867 games) |
| 3 of 3 | 52.6 (6,869 games) |
| 1 of 4 | 54.5 (3,083 games) |
| 2 of 4 | 54.1 (3,079 games) |
| 3 of 4 | 55.0 (3,084 games) |
| 4 of 4 | 53.9 (3,082 games) |

The early games have a larger home-field advantage in this era. As travel has improved over time, the early-game home-field advantage has fallen. Whether this may allow another middle-game effect to emerge remains pretty ambiguous. Perhaps it will become clearer over time.

All in all, this section probably poses more questions than it answers. The previous sections have allowed us to reach conclusions about the topics addressed therein, and many of the answers were not surprising. There is clearly a surprising result—that home-field advantage is much larger in the middle games of the series—and my hypothesis as to why that might be is not necessarily correct. I do think it's most likely that the significance of these games is a result of an effect of home-field advantage that increases with the duration of the series and a second effect of home-field advantage that decreases with the duration of the series, but those two effects are not necessarily jetlag and time away from home, the two effects that I paired earlier in my analysis.

In the next section, we will discuss individual player differences to demonstrate what effects home-field advantage has at the individual level.

INDIVIDUAL PLAYERS

Although team-specific home-field advantage is small, that does not necessarily apply for specific players at home. We have seen that home teams are more likely to succeed in hitting home runs, so we are left to wonder whether home-run hitters are more likely to have a higher home-field advantage. A thoughtful commenter in an online version of this article pointed out that home-field advantage seemed to be growing in recent years. In fact, it has gone up, from about 6.6 percent in 1998–2002 to 8.9 percent in 2003–2008. Perhaps teams have been able to improve their home-field advantage by acquiring players who better suit their ballparks. Furthermore, if teams are more likely to hit home runs at home, we may wonder whether players who hit more home runs will have higher or lower differentials between their home-run rates at home as opposed to the road. In this section, we will test several statistics for this possible trend.

Naturally, testing this data requires that we know that players have persistent home-field advantage. This is not something we can assume, because we know that teams do not. When we study players who did not switch teams and who had at least 150 at-bats at home and at least 150 at-bats on the road in two consecutive years from 2001 through 2008—only then do we see that the difference between OPS at home and

on the road for a player has a year-to-year correlation of .1863, which is quite large given our sample of 960 players. It is worth checking whether park factors were playing a role here, so I used ESPN's park factors for the year in question and normalized the home statistics using park factors listed (hits, doubles, triples, home runs, walks). Since one-year park factors fluctuate a lot (there is no ballpark that is going to be twice as likely as the average to surrender home runs), I also developed regressed park factors that were merely halfway between the recorded park factor and 1.00. Either way, this correlation came out large: .1752 for given park factors and .1615 with regressed park factors. The year-to-year correlation for this set of hitters was also pretty high for various other statistics. (Note that the following numbers are normalized using the regressed park factors.)

| Stat | Year-to-Year Correlation |
|-------|--------------------------|
| HR/AB | .0852 |
| AVG | .1038 |
| OBP | .1892 |
| SLG | .1247 |
| BB/PA | .1101 |
| K/PA | .0914 |
| BABIP | .0830 |

This year-to-year correlation was not as strong for pitchers, since they had only a slight tendency to continue being relatively better at home if they had the year before.

Using the regressed park factor-adjusted ERA of 539 pitchers from 2001 through 2008 who threw 40 innings or more at home and on the road for the same team for two consecutive years, we get a correlation of .0299. This was not much different with no park adjustments (.0394) and unregressed park-factor adjustments (.0520).

| Stat | Year-to-Year Correlation |
|------|--------------------------|
| BB/9 | .0521 |
| HR/9 | -.0348 |
| K/9 | .1261 |

It seems that, if some pitchers consistently perform well at home, this would be primarily a function of recording strikeouts and secondarily a function of not walking batters.

In the above analyses, the statistical correlation that is studied concerns the difference between the home and road statistics. It is possible that home-field

SWARTZ: Home-Field Advantage

advantage has a multiplicative effect rather than an additive effect. For that reason, I also tested the correlations of the ratio of home statistics to road statistics from year to year. Here are those results:

Hitters—Ratios of Home to Road Statistics

| Stat | Year-to-Year Correlation |
|-------|--------------------------|
| HR/AB | .0788 |
| OBP | .1741 |
| SLG | .1419 |
| BB/PA | .0411 |
| K/PA | .0831 |
| BABIP | .0812 |

Pitchers—Ratios of Home to Road Statistics

| Stat | Year-to-Year Correlation |
|------|--------------------------|
| ERA | .0217 |
| BB/9 | .0659 |
| HR/9 | -.0311 |
| K/9 | .0828 |

It appears that home-field advantage for hitters is persistent either way you measure it. For pitchers it is somewhat persistent but less so.

Since it is pretty clear that hitters and pitchers have some persistent ability to do better at home, it's worth checking whether home-field advantage proves particularly helpful for players who have certain skills. This appears to be true across many skills. For example, the correlation between OPS and the difference between OPS at home and on the road (all normalized using regressed park factors) is .1452 for the 1,824 hitters with at least 150 at-bats at home and on the road in the period 2001–2008. The correlation between ERA and the difference between ERA at home and on the road (again, all normalized the same way) is -.1048. It seems that better pitchers and better hitters will show larger home-field advantages. Consider the correlations between the following normalized statistics and the differential between them at home and on the road, where normalizing refers to using the same normalized park factors:

| Stat | Correlation Between Itself and Its Home/Road Differential |
|-------|---|
| HR/AB | .0707 |
| BB/PA | .1129 |
| K/PA | .1127 |
| BABIP | .1127 |
| ISO | .0696 |
| SLG | .1216 |
| OBP | .1517 |

For pitchers, we get the following:

| Stat | Correlation Between Itself and Its Home/Road Differential |
|------|---|
| BB/9 | -.0515 |
| HR/9 | -.0560 |
| K/9 | .0704 |

From these numbers it's pretty clear that players who have certain skills are particularly adept at employing them while at home. This seems true for nearly all statistics and especially for those related to strike-zone management.

However, suppose we try to repeat this analysis looking at ratios instead of differentials:

Hitters—Ratios of Home to Road Statistics

| Stat | Year-to-Year Correlation |
|-------|--------------------------|
| HR/AB | -.0608 |
| BB/PA | -.0589 |
| K/PA | .0341 |
| BABIP | .0848 |
| ISO | -.0420 |
| SLG | .0671 |
| OBP | .1109 |

Pitchers—Ratios of Home to Road Statistics

| Stat | Year-to-Year Correlation |
|------|--------------------------|
| BB/9 | -.0139 |
| HR/9 | -.0448 |
| K/9 | -.0130 |

By this measure, it appears that hitters tend to have particularly strong home-field advantage with respect to BABIP skills but not for other measures of hitting, such as strike-zone management. Pitching does not appear to have an especially strong home-field advantage for particular statistics, though the ratio of home to road ERA actually shows a -.0986 correlation, indicating that better pitchers may be particularly good at home. Of course, there is no reason to necessarily choose differences or ratios, but it is best to look at both to get a better idea of individual home-field advantage.

As a side note, I thought it would be interesting to check the effect of age on home-field advantage. In discussions I had with David Cohen of TheGoodPhight.com a while back, he questioned whether older players may have larger or smaller home-field advantages. Their familiarity with road ballparks may enable them to see the ball better there. However, travel may be more difficult for them. In fact, the latter effect seems slightly more prevalent: The

correlation between OPS home-road differential and age is .0884, and the correlation between ERA home-road differential and age is only .0294. The former is statistically significant, while the latter is not. Perhaps pitchers (in this study, starting pitchers generally, since relievers rarely notch both 40 innings at home and 40 innings on the road) are better able to adjust their bodies on the road, while everyday players may struggle a little more with travel as they age.

CONCLUSION

In this study we have learned many surprising but also a few unsurprising things. Initially, we discovered that home-field advantage was particularly strong in the early innings. Many fans believe that a large portion of home-field advantage in baseball derives from the home team having the structural advantage of the last plate appearance, in which they know how many runs they need to win and can play one-run strategies if necessary. While this may be a factor, it is probably just as likely that the defense can adjust their fielders (e.g., “no-doubles defense”) in such a way to play one-run defensive strategies to their own advantage. Therefore, it is not at all clear that a late-game effect is a significant portion of home-field advantage. The early-game advantage is large and suggests a matter of getting used to the field. That this early-game (and particularly first-game) advantage is large in each series game suggests that starting pitchers are significantly affected by their own ballpark in ways that other players are not. Strengthening the argument that pitchers are a major factor in home-field advantage are the finding that pitchers hit more batters on the road and the discovery of the significant effects of home field on other defense-independent outcomes. Hitters appear to play a role as well in home-field advantage, as demonstrated by their superior performance at home with respect to home runs, batting average on balls in play, and avoiding ground balls. That defenses make fewer errors and record more double plays at home suggests that they are affected by home-field advantage, and stolen-base percentage indicates an advantage in home-team baserunning as well.

Home-field advantage does not appear to be very team-specific. Only the Rockies show a persistent home-field advantage. Other measures of statistical consistency imply that the effect all other teams expe-

rience when playing at home does not vary much from team to team. However, there are many indications that individual players see noticeable home-field effects. These may be seen to most affect batting average on balls in play or, depending on the methodology used, strike-zone management, but it does appear that home field can elevate a player’s game and particularly help a hitter’s game more than a pitcher’s game.

There are differing home-field advantages that depend on which game of the series is played. The closer the teams’ home parks are to each other, and the greater the teams’ familiarity with each other’s ballparks, the smaller the home-field advantage. Even for teams that are from different leagues, play near each other, and play each other relatively often, home-field advantages are low. Home-field advantage does appear variable by series game. Indications are that the last game of the series tends to show the smallest home-field advantage, though more so in the past than now. However, there is some indication that the first game of a series has a smaller home-field advantage than do the middle games, particularly when teams are from cities near each other. This could result from a variety of causes, such as home teams adjusting more quickly than do away teams as the series progresses, but the reason remains unclear.

Home-field advantage clearly exists in baseball. Given so much research that consistently shows weak psychological and contextual effects, to see this large effect is refreshing. Eight percent is a lot. When you remove an average hitter from a lineup and replace him with a replacement-level player, you may lower home-field advantage only a little more than 1 percent. The effect of home-field advantage is so large that you are better off playing your third starter against your opponents’ ace in your home park than you are the other way around. Effects of familiarity and distance appear to be the primary drivers of home-field advantage, though other factors may be at play. Knowing how large these effects are indicates that there is much to be learned from understanding context in baseball. It is easy to dismiss these effects as minor, considering how they are often small compared to the effects of talent, but their existence is clear. The psychology of the crowd may not be what is driving home-field advantage, but it is apparent that they will continue to enjoy its effects. ■

Coming from Behind

Patterns of Scoring and Their Relation to Winning

David W. Smith

AT THE ANNUAL SABR CONVENTION in 2003, in Denver, I presented my analysis of game scores in relation to overall team success.¹ The inspiration for that study was the common assertion that the ability to win close games is an indication of “clutch” performance and that better teams will stand out in these games over the course of a season. In fact, I found that success in close games is not an especially good predictor of the best teams and that the ability to win games by a large margin is much more closely related to overall winning percentage.

That study in 2003 was based entirely on the final score of each game. This leaves open some large questions relating to the pattern of scoring within a game. Some questions that were suggested then were

- How important is it to get an early lead?
- Do good teams come from behind more often?
- Do wins in the last at-bat indicate a strong team?

I have now examined these more subtle features by using line-score data. The information came from

several sources: Retrosheet and STATS, Inc., provided the greatest portion, while Mike Grahek, John Agius, Ed Hartig, and Luke Kraemer generously pitched in as well. I am very grateful for this help. Much of this information is already on the Retrosheet website. (See table 1.)

Table 2 presents a summary of the basic run-scoring data by inning for all games from these 73 seasons. There are several interesting features. First, note that the highest-scoring inning for both home and visitor is the first. There is a substantial drop-off in the second inning, probably because the bottom of the order is involved. The home team scores more in each inning from the first through the eighth, but then the trend reverses. For the ninth inning and all extra innings, the visitors outscore the home team.

How do these facts fit into the winning of games? That, after all, is our ultimate question. The conventional wisdom is that the home team has an advantage by batting last, but let’s see just how big that advantage is. (See table 3.)

Table 1. Data Analyzed in Present Study

| Seasons | Team-Seasons | Games | Innings | Runs | Runs/Game | Runs/Inning |
|---------|--------------|---------|-----------|-----------|-----------|-------------|
| 73* | 1,566 | 122,906 | 2,204,661 | 1,074,251 | 8.74 | 0.487 |

*1901, 1904, 1909, 1910, 1912, 1913, 1918, 1936, 1938–1942, 1944–2003

Table 2. Runs per Inning for Visiting and Home Teams

| Inning | Games | Visitor Runs/ Inning | Home Team Runs/ Inning | Inning | Games | Visitor Runs/ Inning | Home Team Runs/ Inning |
|--------|---------|-------------------------|---------------------------|--------|--------|-------------------------|---------------------------|
| 1 | 122,906 | 0.514 | 0.607 | 10 | 11,513 | 0.462 | 0.336 |
| 2 | 122,906 | 0.409 | 0.453 | 11 | 6,453 | 0.461 | 0.335 |
| 3 | 122,906 | 0.464 | 0.518 | 12 | 3,610 | 0.432 | 0.337 |
| 4 | 122,906 | 0.478 | 0.516 | 13 | 2,022 | 0.465 | 0.326 |
| 5 | 122,906 | 0.467 | 0.514 | 14 | 1,141 | 0.450 | 0.343 |
| 6 | 122,723 | 0.488 | 0.526 | 15 | 620 | 0.476 | 0.308 |
| 7 | 122,428 | 0.473 | 0.513 | 16 | 352 | 0.438 | 0.321 |
| 8 | 122,044 | 0.470 | 0.502 | 17 | 189 | 0.444 | 0.323 |
| 9 | 121,697 | 0.450 | 0.415 | 18 | 101 | 0.317 | 0.287 |
| | | | | 19–26 | 135 | 0.511 | 0.311 |

Table 3. Performance of Visiting and Home Teams in All Games, Nine-Inning Games, and Extra-Inning Games

| | Games | Visitor Wins | Home-Team Wins | Visitor Win Percentage | Home-Team Win Percentage |
|-----------|---------|-----------------|-------------------|---------------------------|-----------------------------|
| All | 12,2493 | 56,425 | 66,068 | 0.461 | 0.539 |
| 9 Inning | 11,1167 | 51,006 | 60,161 | 0.459 | 0.541 |
| Extra Inn | 11,326 | 5,419 | 5,907 | 0.478 | 0.522 |

As expected, the home team does do better, though, perhaps surprisingly, its advantage decreases in extra-inning games. In fact, we may ask why the home team wins more than half the time, given the distinct scoring advantage the visiting team has in the ninth inning and later. The answer, of course, is that the rules are a bit different in extra innings, with the game ending if and when the home team takes the lead, whereas the visitors keep batting, no matter how many runs they score. This argument applies to the ninth-inning differences as well. This suggestion is borne out by the data in table 4, which shows the winning margin, for visiting and home teams, in extra-inning games. The only category in which the home team dominates in extra innings is the one-run victory. Four is the maximum possible margin by which the home team can win in extra innings. In extra-inning games decided by more than one run, the visiting team wins many times more than does the home team and wins many games by more than four runs.

Table 4. Winning Margin in Extra-Inning Games for Visiting and Home Teams

| Margin (Runs) | Visitor | Home Team |
|---------------|---------|-----------|
| 1 | 2,962 | 5,434 |
| 2 | 1,359 | 283 |
| 3 | 617 | 130 |
| 4 | 252 | 60 |
| 5 | 133 | 0 |
| 6 | 57 | 0 |
| 7 | 25 | 0 |
| 8 | 10 | 0 |
| 9 | 2 | 0 |
| 10 | 1 | 0 |
| 11 | 0 | 0 |
| 12 | 1 | 0 |

Let's turn now to the value of an early lead. Figure 1 presents the winning percentage of all teams across all seasons when leading after a given number of innings.

The pattern is striking. Teams that lead after the first inning win nearly 70 percent of the time, and the winning percentage gets consistently better with each passing inning. A lead after eight innings holds up 95 percent of the time. This is a point worth keeping in mind the next time you hear an announcer praise a team for the way its great bullpen gets the job done.

Of course, the size of the lead matters as well, as shown in figure 2.

A lead of four runs at the end of eight innings has been converted to a win 99.5 percent of the time. The

raw numbers are 44,324 wins and only 213 losses in the 73 seasons examined.

Of course, a modern reality is bullpen specialization, with every team feeling obligated to find a closer to preserve the ninth-inning lead. I therefore analyzed this question across the last century to look for any obvious patterns. As figure 3 shows, there are no discernible differences from 1901 through 2003 (data shown for leads of all sizes after one, four, and eight

Figure 1. Winning Percentage for Teams Leading After the Indicated Number of Innings

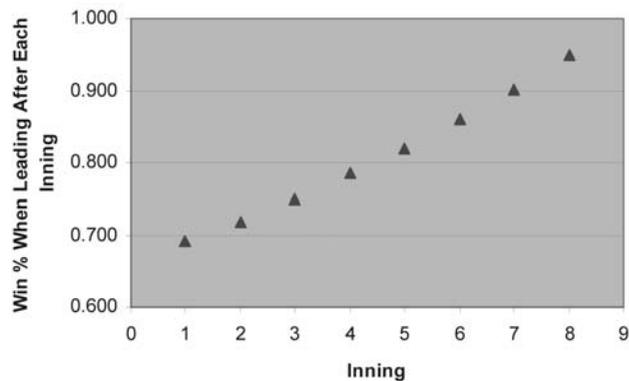


Figure 2. Winning Percentage for Teams Leading by Indicated Margin After Each Inning

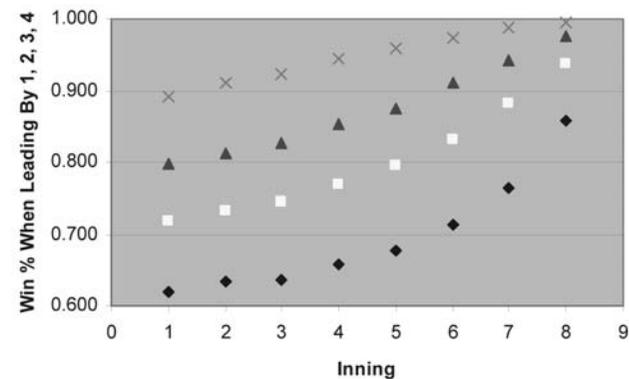
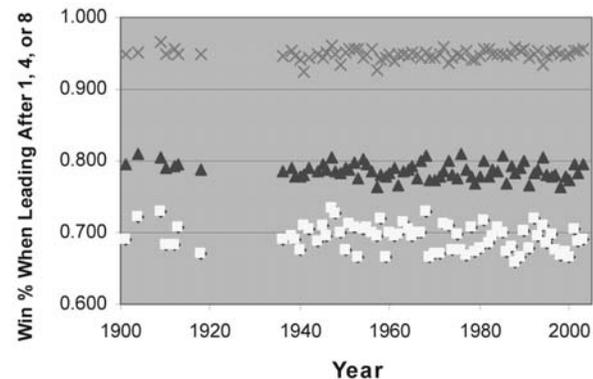


Figure 3. Winning Percentage for Teams Leading After 1, 4, or 8 Innings (All Margins Combined), 1901–2003



SMITH: Coming from Behind

innings). What this says about the necessity of a closer is interesting, though not our main topic here.

The final approach to this question of success when leading after eight innings is to examine individual teams—an apt subject to investigate, as on broadcasts we hear so much about preserving leads late in the game. In the 73 years studied, there were 1,566 team-seasons. Of these, there were 40 teams that never lost a lead after eight innings. The number of wins ranged from 97 for the 1954 Indians to 34 for the 1981 Mets. Here are all the times with unblemished marks in at least 80 games.

Table 5. Teams with Prefect Records When Leading After Eight Innings (Minimum of 80 Wins)

| | | |
|------|-----------|----|
| 1954 | Indians | 97 |
| 1993 | Giants | 91 |
| 2002 | A's | 91 |
| 1912 | Giants | 87 |
| 1984 | Tigers | 87 |
| 1985 | Cardinals | 86 |
| 1998 | Padres | 85 |
| 1948 | Yankees | 83 |
| 1972 | Pirates | 83 |
| 1950 | Red Sox | 82 |
| 1999 | Astros | 82 |
| 1952 | Dodgers | 80 |
| 1995 | Indians | 80 |

By the way, the 1998 Yankees had the largest number of wins when leading after eight, but they lost once, for a mark of 102-1 in these situations.

The flip side of this is to ask what teams have the worst marks when leading after eight innings. This will give us some perspective on the good performances. The answer is in table 6.

Table 6. Teams with Worst Records When Leading After Eight Innings

| | | | | |
|------|------------|----|----|-------|
| 1978 | Mariners | 41 | 10 | 0.804 |
| 1939 | Browns | 36 | 8 | 0.818 |
| 1952 | Pirates | 28 | 6 | 0.824 |
| 1962 | Mets | 28 | 6 | 0.824 |
| 2002 | Devil Rays | 43 | 9 | 0.827 |
| 1978 | Mets | 53 | 11 | 0.828 |
| 1942 | A's | 44 | 9 | 0.830 |
| 1963 | Mets | 42 | 8 | 0.840 |
| 1949 | Reds | 43 | 8 | 0.843 |
| 1979 | Padres | 49 | 9 | 0.845 |
| 1999 | Cubs | 50 | 9 | 0.847 |
| 1957 | Senators | 39 | 7 | 0.848 |
| 1939 | Senators | 51 | 9 | 0.850 |

There are some teams there that are easily recognizable as pretty poor, but note that the worst performance

I could find was for a team that still won more than 80 percent of its games in these situations. There were only four teams that lost 10 or more times when leading after eight innings, with the 1978 Mets being the only team with 11 losses.

Another achievement that is often associated with successful teams is the ability to win games by coming from behind. A win of this type is to be distinguished from one in which the lead never changed hands. Table 7 presents the raw data.

Table 7. Games in Which Winning Team Came from Behind or Never Trailed

| | Games | Percentage of Total Games |
|------------------|--------|---------------------------|
| Come from Behind | 53,074 | 0.437 |
| Never Trailed | 68,340 | 0.563 |

Do the better teams win more games in which they come from behind? Figure 4 presents each team's winning percentage in relation to the percentage of games in which they came from behind to win. The relation is moderately strong, with a correlation coefficient of 0.65.

The other side of this coin is the relation between winning percentage and the percentage of games in which winner never trailed. These results are shown in figure 5.

Figure 4. Winning Percentage in Relation to Percentage of Games That Are Come-from-Behind Wins

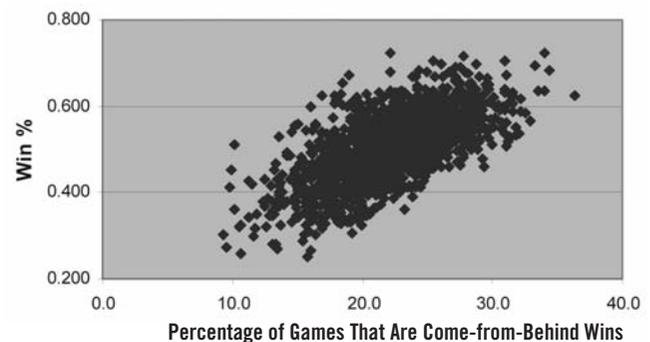
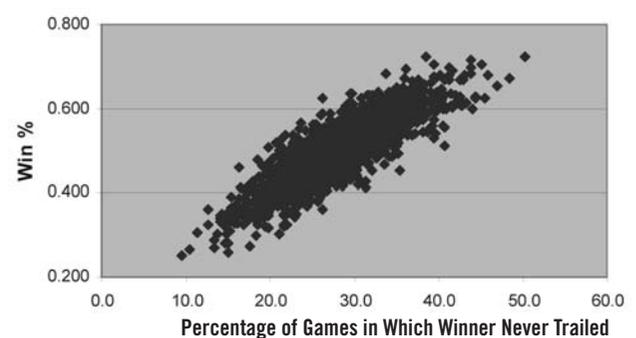


Figure 5. Winning Percentage in Relation to Percentage of Games in Which Winner Never Trailed



This relation is much stronger, with a correlation coefficient of 0.86. This result is in good agreement with my earlier finding (in 2003) that indicated that winning by a large margin is a better predictor of success than is winning close games.

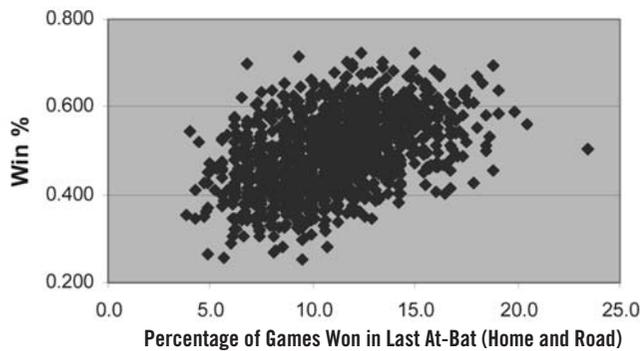
The final topic I will address is the matter of winning in the last at-bat. This is certainly exciting and announcers generally praise it strongly. But once again the question is whether it has long-term meaning as a predictor of team success. First, the raw numbers are in table 8. The huge differences between visitors and home are not unexpected.

Table 8. Winning Percentage for Visiting and Home Teams in Games Won in Last At-bat

| | Wins | Losses | Win Percentage |
|-----------|--------|--------|----------------|
| Visitor | 9,945 | 16,869 | 0.371 |
| Home Team | 16,869 | 9,945 | 0.629 |

The value in overall success is shown in figure 6. The relation is moderate, with a correlation coefficient of 0.42. The values here are combined for home and road for each team; the relation is even weaker if they are considered separately.

Figure 6. Winning Percentage in Relation to Percentage of Games Won in Last At-Bat



CONCLUSIONS

- Home teams score more in each of first eight innings.
- Visiting teams score more in each extra inning.
- An early lead is very valuable.
- The introduction of the closer has not changed the ability of teams to preserve late-inning leads.
- Coming from behind and winning in the last at-bat is only moderately important.
- The most successful teams get the lead and keep it.
- Total scoring is by far the best predictor of overall success. ■

Notes

This article is based on a presentation at the annual SABR convention in July 2004. A version of this is posted at www.retrosheet.com.

1. David W. Smith, "Do Good Teams Really Win More of the Close Games?" www.retrosheet.org/Research/SmithD/WinClose.pdf.

Ty Cobb's Splits

Trent McCotter

TY COBB IS STILL REMEMBERED as one of the greatest players in the game's history. He's perhaps the only player from more than one hundred years ago whose name is still recognized by even casual fans. However, he bears the burden of having played in an era when statistics weren't compiled or analyzed at anywhere near the same level as they are today.

His lifetime batting average and hit total are easily found,¹ but what about his home and away on-base percentage, or his numbers against left-handed pitchers? Cobb's official day-by-day stats are recorded on dozens of handwritten ledger sheets that are housed in the Hall of Fame's basement, making it difficult to determine such statistical splits for Cobb. In fact, it had never been done.

However, over the last few years, I have entered all of Cobb's official day-by-day stats from those paper ledgers into a computer database. I also included new information, like the opposing team, the opposing starting pitcher, and which games were home and away.

By digitizing Cobb's career stats, we can now create certain statistical splits where before we had only season totals.

We still won't know stats like Cobb's average with runners in scoring position or his exact numbers against each pitcher. To calculate those, we'd need play-by-plays of all 3,035 of Cobb's career games—and the record of those details just doesn't exist. But we still can calculate a lot of interesting figures for his entire career.

Besides offering the sheer fun of seeing splits for the first time for one of the game's greats, this article gives new stats that can be used to compare Cobb to other great hitters for whom such splits are easily available on Retrosheet. Along the way, I will point out some of the highlights but also present the full data in tables so that readers can draw their own conclusions.

Here we go. (See table 1.)

Note that Cobb hit only three points higher at home than on the road and that he had more career hits on the road. His consistency in almost all statistical fields shows he wasn't a product of a hitters'-haven home ballpark. A player compiling Cobb's road numbers alone would be worthy of Hall of Fame consideration.

As just one example of his road-hitting prowess: Cobb hit .423 on the road in 1912, .414 in 1913, and .414 in 1917. In fact, in 1917 Cobb had a 39-game hitting streak on the road, one of the longest such streaks in MLB history. (See table 2.)

Cobb hit over .350 against all teams except Detroit, against whom he played only during his final two seasons, when he was with the Athletics. Philadelphia and Washington, frequently among the worst pitching staffs of Cobb's era, proved their critics right; the Tiger great hit over .380 against both of them and also had his highest slugging marks against them. (See table 3.)

Cobb had his best numbers at Washington's Griffith Stadium (.405 average) and the Yankees' Polo Grounds (.563 slugging). From September 13, 1913, through

Table 1. Cobb's Home and Away Splits

| | G | AB | R | H | TB | 2B | 3B | HR | SB | BB | HBP | AVG | OBP | SLG |
|-------------|-------|-------|-------|-------|-------|-----|-----|----|-----|-----|-----|-------|-------|-------|
| HOME | 1,511 | 5,524 | 1,111 | 2,032 | 2,831 | 374 | 160 | 35 | 456 | 648 | 42 | 0.368 | 0.438 | 0.512 |
| AWAY | 1,524 | 5,915 | 1,137 | 2,158 | 3,032 | 350 | 139 | 82 | 445 | 607 | 52 | 0.365 | 0.429 | 0.513 |

Table 2. Cobb's Splits by Opposing Team

| | G | AB | R | H | TB | 2B | 3B | HR | SB | BB | HBP | AVG | OBP | SLG |
|---------|-----|-------|-----|-----|-----|-----|----|----|-----|-----|-----|-------|-------|-------|
| vs. BOS | 437 | 1,658 | 315 | 615 | 857 | 97 | 53 | 13 | 141 | 173 | 17 | 0.371 | 0.436 | 0.517 |
| vs. CHI | 428 | 1,621 | 303 | 575 | 764 | 96 | 30 | 11 | 108 | 178 | 12 | 0.355 | 0.422 | 0.471 |
| vs. CLE | 434 | 1,653 | 319 | 580 | 798 | 105 | 34 | 15 | 135 | 161 | 15 | 0.351 | 0.413 | 0.483 |
| vs. DET | 33 | 110 | 27 | 37 | 50 | 11 | 1 | 0 | 4 | 19 | 5 | 0.336 | 0.455 | 0.455 |
| vs. NY | 443 | 1,660 | 342 | 619 | 911 | 117 | 53 | 23 | 102 | 175 | 11 | 0.373 | 0.436 | 0.549 |
| vs. PHI | 397 | 1,550 | 318 | 590 | 821 | 104 | 44 | 13 | 131 | 171 | 9 | 0.381 | 0.445 | 0.530 |
| vs. STL | 429 | 1,597 | 323 | 569 | 833 | 96 | 45 | 26 | 135 | 189 | 12 | 0.356 | 0.428 | 0.522 |
| vs. WAS | 434 | 1,590 | 301 | 605 | 829 | 98 | 39 | 16 | 145 | 189 | 13 | 0.381 | 0.450 | 0.521 |

The Baseball Research Journal, Fall 2009

May 11, 1918, Cobb also put together one of the most amazing—yet heretofore unknown—hitting streaks by getting a base hit in 48 consecutive games at the Polo Grounds. This streak appears to be the longest hitting streak at any particular ballpark in MLB history.

It should be pointed out that Cobb wasn't the only one who hit well at the Polo Grounds. During his time with the Boston Red Sox, Babe Ruth hit only 22 percent of his home runs at Fenway. However, in 1920 he went to the Yankees and hit 54 percent of his homers at the Polo Grounds, where he compiled a record .990 slugging percentage. It's not a stretch to say that Ruth never would have come close to

714 homers if he'd stayed at Fenway Park for his entire career.

Returning to Cobb, the only two parks that stymied the Georgia Peach were two that existed only during the beginning of his career: Cleveland's League Park I, where he hit an anemic .254 with a .291 on-base percentage, and St. Louis's Sportsman's Park II, where Cobb hit only .238 in 34 games. (See table 4.)

In this table, Cobb's stats for an entire game are attributed to the one pitcher who started the game. Since we don't have full information about relief pitchers, this table is really just a close representation of how Cobb did against these particular starters. Relievers

Table 3. Cobb's Splits by Ballpark

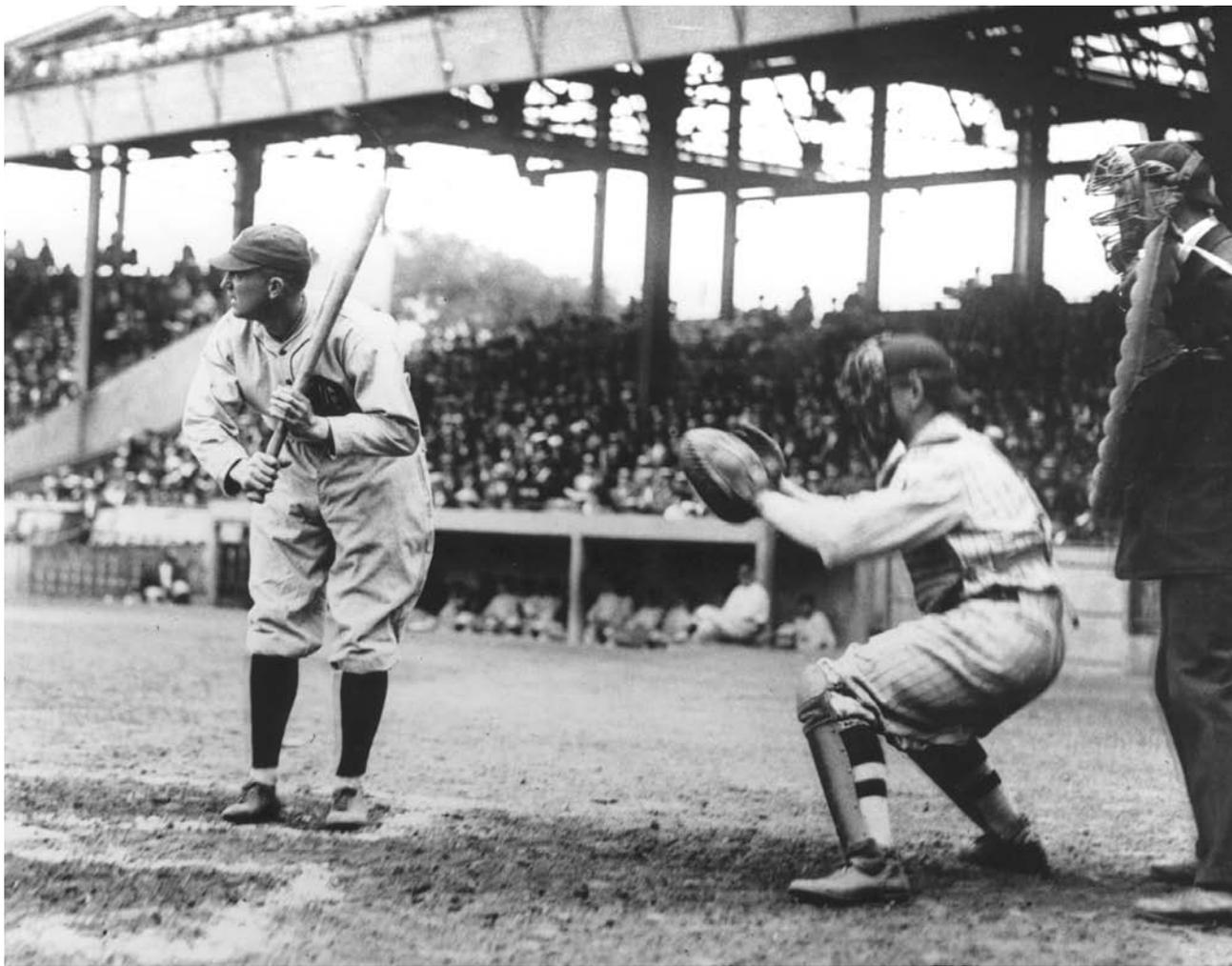
| STADIUM | TEAM | G | AB | R | H | TB | 2B | 3B | HR | SB | BB | HBP | AVG | OBP | SLG |
|---------------------|------|-----|-------|-----|-------|-------|-----|-----|----|-----|-----|-----|-------|-------|-------|
| Huntington Ave. Gr. | BOS | 61 | 245 | 51 | 95 | 136 | 21 | 7 | 2 | 29 | 16 | 2 | 0.388 | 0.430 | 0.555 |
| Fenway Park | BOS | 159 | 610 | 104 | 205 | 289 | 32 | 17 | 6 | 43 | 69 | 8 | 0.336 | 0.410 | 0.474 |
| Southside Park III | CHI | 48 | 179 | 25 | 57 | 75 | 8 | 2 | 2 | 16 | 10 | 4 | 0.318 | 0.368 | 0.419 |
| Comiskey Park I | CHI | 157 | 619 | 117 | 227 | 302 | 32 | 17 | 3 | 43 | 73 | 5 | 0.367 | 0.438 | 0.488 |
| League Park I | CLE | 51 | 193 | 20 | 49 | 65 | 4 | 3 | 2 | 7 | 7 | 3 | 0.254 | 0.291 | 0.337 |
| League Park II | CLE | 168 | 649 | 135 | 238 | 331 | 51 | 9 | 8 | 42 | 73 | 6 | 0.367 | 0.435 | 0.510 |
| Bennett Park | DET | 444 | 1,648 | 321 | 618 | 855 | 105 | 42 | 16 | 180 | 137 | 17 | 0.375 | 0.428 | 0.519 |
| Tiger Stadium | DET | 965 | 3,493 | 717 | 1,284 | 1,803 | 241 | 115 | 16 | 264 | 469 | 25 | 0.368 | 0.446 | 0.516 |
| Hilltop Park | NY | 71 | 277 | 58 | 98 | 144 | 17 | 10 | 3 | 23 | 15 | 2 | 0.354 | 0.391 | 0.520 |
| Polo Grounds V | NY | 106 | 407 | 76 | 160 | 229 | 29 | 8 | 8 | 26 | 55 | 3 | 0.393 | 0.469 | 0.563 |
| Yankee Stadium | NY | 49 | 189 | 40 | 69 | 101 | 9 | 1 | 7 | 4 | 20 | 0 | 0.365 | 0.426 | 0.534 |
| Columbia Park | PHI | 28 | 113 | 13 | 31 | 50 | 8 | 4 | 1 | 6 | 6 | 1 | 0.274 | 0.317 | 0.442 |
| Shibe Park | PHI | 293 | 1,152 | 242 | 428 | 577 | 72 | 19 | 13 | 67 | 125 | 5 | 0.372 | 0.435 | 0.501 |
| Sportsman's Park II | STL | 34 | 130 | 13 | 31 | 43 | 3 | 3 | 1 | 7 | 3 | 1 | 0.238 | 0.261 | 0.331 |

Table 4. Cobb's Totals in Games Started by Top Pitchers of the Day

| Started by | G | AB | R | H | TB | 2B | 3B | HR | SB | BB | HBP | AVG | OBP | SLG |
|---------------------|-------------|-------------|-------------|-------------|-------------|------------|------------|-----------|------------|------------|-----------|--------------|--------------|--------------|
| Jack Chesbro | 16 | 56 | 10 | 20 | 32 | 3 | 3 | 1 | 6 | 4 | 1 | 0.357 | 0.410 | 0.571 |
| Eddie Cicotte | 38 | 139 | 33 | 53 | 70 | 8 | 3 | 1 | 9 | 15 | 0 | 0.381 | 0.442 | 0.504 |
| Jack Coombs | 20 | 69 | 18 | 28 | 45 | 2 | 6 | 1 | 11 | 7 | 1 | 0.406 | 0.468 | 0.652 |
| Red Faber | 52 | 191 | 25 | 53 | 76 | 12 | 4 | 1 | 7 | 26 | 1 | 0.277 | 0.367 | 0.398 |
| Waite Hoyt | 29 | 107 | 21 | 32 | 46 | 5 | 3 | 1 | 6 | 9 | 1 | 0.299 | 0.359 | 0.430 |
| Walter Johnson | 92 | 332 | 49 | 126 | 164 | 19 | 8 | 1 | 22 | 44 | 0 | 0.380 | 0.452 | 0.494 |
| Addie Joss | 24 | 91 | 12 | 24 | 29 | 2 | 0 | 1 | 8 | 3 | 1 | 0.264 | 0.295 | 0.319 |
| Ted Lyons | 22 | 81 | 16 | 29 | 36 | 5 | 1 | 0 | 4 | 9 | 1 | 0.358 | 0.429 | 0.444 |
| Eddie Plank | 54 | 210 | 30 | 70 | 98 | 13 | 6 | 1 | 26 | 17 | 1 | 0.333 | 0.386 | 0.467 |
| Red Ruffing | 10 | 35 | 6 | 8 | 11 | 1 | 1 | 0 | 4 | 4 | 0 | 0.229 | 0.308 | 0.314 |
| Babe Ruth | 21 | 74 | 12 | 25 | 28 | 1 | 1 | 0 | 8 | 16 | 1 | 0.338 | 0.462 | 0.378 |
| Rube Waddell | 21 | 79 | 14 | 28 | 45 | 6 | 4 | 1 | 9 | 7 | 0 | 0.354 | 0.407 | 0.570 |
| Ed Walsh | 29 | 114 | 14 | 40 | 50 | 7 | 0 | 1 | 8 | 7 | 1 | 0.351 | 0.393 | 0.439 |
| Doc White | 42 | 160 | 27 | 52 | 71 | 6 | 2 | 3 | 13 | 17 | 3 | 0.325 | 0.400 | 0.444 |
| Joe Wood | 18 | 69 | 11 | 29 | 43 | 10 | 2 | 0 | 8 | 7 | 0 | 0.420 | 0.474 | 0.623 |
| Cy Young | 25 | 99 | 13 | 35 | 51 | 6 | 5 | 0 | 5 | 1 | 0 | 0.354 | 0.360 | 0.515 |
| ALL LEFTIES | 925 | 3496 | 657 | 1213 | 1696 | 196 | 88 | 37 | 304 | 410 | 28 | 0.347 | 0.420 | 0.485 |
| ALL RIGHTIES | 2109 | 7939 | 1590 | 2976 | 4163 | 528 | 211 | 79 | 597 | 845 | 66 | 0.375 | 0.439 | 0.524 |

Notes: Totals are only from games started by that pitcher.
Cobb had one game versus Ed Moyer, whose throwing hand is unknown.

McCOTTER: Ty Cobb's Splits



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

A paragon of consistency, Ty Cobb had a lifetime batting average on the road that was only three points lower than at home. He hit better than .350 against all teams except Detroit, against whom he played only his last two seasons, when he was with the Athletics. At only three ballparks, where he played a combined total of only 113 games, did he fail to hit better than .300.

were rare in these days anyway, as these pitchers completed an aggregate 74 percent of their career starts.

Cobb had good numbers in games where Walter Johnson started (.380 average with a .452 on-base percentage). Cobb always said that the reason he did well against Johnson was that The Big Train was afraid of hitting batters; the stats seem to back it up—Cobb wasn't hit by a single pitch in any of the 92 games that Johnson started against Cobb. Cobb also did well in games started by a young lefty known as Babe Ruth (.338 average), although only two of Cobb's 25 hits in those games went for extra bases.

As a lefty, Cobb naturally did worse against southpaws, hitting 28 points higher against righties. Over the last twenty years in the majors, a typical lefty has hit about 15 to 20 points lower against left-handed pitchers than against right-handed pitchers. Note that Cobb's career average against lefties would still be the fifth-highest overall career average in MLB history.

The only top pitchers who seem to have held Cobb down were Red Ruffing, who allowed just a .229 batting average and .314 slugging average in games started against Cobb; and Addie Joss, who kept Cobb below a .270 batting average and .300 on-base percentage. Even the great Cy Young, whose career was winding down just as Cobb's was beginning, could only keep Cobb to about a .350 batting average. Interestingly, Cobb stole a disproportionate amount of bases off of Eddie Plank—a lefty, no less—whom Cobb faced more than any other pitcher except Johnson. (See table 5.)

Cobb tended to start off cool in the cool month of April—he had a mere .329 average. But he quickly turned up the heat as the summer grew warmer. His best months were June and July, where he had a .985 and .979 OPS, respectively. As shown in the next section, Cobb's best months did in fact tend to be June and July.

The Baseball Research Journal, Fall 2009

Table 5. Cobb's Splits by Month

| Month | G | AB | R | H | TB | 2B | 3B | HR | SB | BB | HBP | AVG | OBP | SLG |
|-------|-----|------|-----|-----|------|-----|----|----|-----|-----|-----|-------|-------|-------|
| Apr | 246 | 927 | 181 | 305 | 428 | 62 | 20 | 7 | 55 | 99 | 10 | 0.329 | 0.400 | 0.462 |
| May | 579 | 2250 | 436 | 812 | 1156 | 159 | 52 | 27 | 159 | 255 | 21 | 0.361 | 0.431 | 0.514 |
| Jun | 533 | 1976 | 395 | 737 | 1073 | 130 | 67 | 24 | 162 | 220 | 25 | 0.373 | 0.442 | 0.543 |
| Jul | 527 | 1973 | 391 | 755 | 1054 | 128 | 51 | 23 | 144 | 207 | 15 | 0.383 | 0.445 | 0.534 |
| Aug | 532 | 2027 | 372 | 745 | 1040 | 127 | 57 | 18 | 142 | 222 | 11 | 0.368 | 0.433 | 0.513 |
| Sep | 559 | 2059 | 417 | 745 | 984 | 103 | 47 | 14 | 207 | 232 | 11 | 0.362 | 0.429 | 0.478 |
| Oct | 59 | 227 | 56 | 91 | 128 | 15 | 5 | 4 | 32 | 20 | 1 | 0.401 | 0.452 | 0.564 |

He also tended to steal more bases at the very end of the season (September and October), perhaps knowing that every run was more valuable to his team as the pennant race came down to the wire. At the very least, Cobb's famous offseason training (he added weights to his boots when he went hunting) allowed him to keep fresh legs even in September. (See table 6.)

Of the 91 months in his career in which he had at least 75 at-bats, Cobb hit below .270 in only three of them. In fact, he hit below .280 in a month only *four times!* Compare that to Ichiro Suzuki, who has had 53 months of 75 or more at-bats during his career but has already had nine months below .270 and eleven below .280.

Cobb's 68 hits in July 1912 is the all-time MLB record; over the last fifty seasons, the most hits in any month is 56 by Ichiro Suzuki in August 2004. Cobb's .535 average in July 1912 is believed to be the MLB record for a full month; the highest over the last fifty seasons is .512 by Todd Helton in April 2000.

Even Cobb's run-scoring and basestealing marks would stand up well against modern totals. His 40 runs in May 1921 would match the highest total in the last fifty years; Chuck Knoblauch also accomplished this in July 1996. Only two players in the last fifty

years have had more steals than Cobb did (28) in June 1915: Rickey Henderson (33 in July 1983 and 31 in September 1980) and Lou Brock (29 in August 1974).

HITTING STREAKS

Naturally, Cobb is one of the most prodigious hit-streakers in MLB history. He had eight separate 20-game hitting streaks during his career, which matches Willie Keeler and Pete Rose for the most ever. In fact, his totals for all of the following are believed to be MLB records:

- 66 streaks of 10+ games**
- 18 streaks of 15+ games**
- 8 streaks of 20+ games (40g, 35g, 23g, 22g, 21g, 21g, 20g)**
- 2 streaks of 30+ games (40g, 35g)**

A Word about the Numbers

Some of you may notice that the splits I present for Cobb don't always sum up to his accepted career totals. There are two primary reasons for this:

Some of the stats in encyclopedias (such as RBIs pre-1920 and early extra-base hits) were calculated ex post facto by researchers who left only

Table 6. Cobb's Top Months

| <u>TOP MONTHS BY RUNS SCORED</u> | | <u>TOP MONTHS BY SLG</u> | | <u>TOP MONTHS BY HITS</u> | | <u>TOP MONTHS BY OPS</u> | |
|-----------------------------------|-----------|--------------------------|-----------|----------------------------|-----------|--------------------------|-----------|
| 40 | May 1921 | 0.825 | June 1925 | 68 | July 1912 | 1.388 | July 1912 |
| 34 | July 1912 | 0.819 | July 1912 | 67 | July 1922 | 1.384 | June 1925 |
| 33 | May 1925 | 0.794 | June 1917 | 58 | May 1921 | 1.312 | June 1917 |
| 33 | July 1917 | 0.731 | May 1921 | 55 | July 1917 | 1.243 | July 1918 |
| | | | | 51 | June 1917 | | |
| | | | | 51 | July 1908 | | |
| | | | | 50 | July 1918 | | |
| <u>TOP MONTHS BY STOLEN BASES</u> | | <u>TOP MONTHS BY OBP</u> | | <u>WORST MONTHS BY AVG</u> | | <u>TOP MONTHS BY AVG</u> | |
| 28 | June 1915 | 0.570 | May 1915 | 0.233 | Sept 1905 | 0.535 | July 1912 |
| 20 | Sept 1911 | 0.569 | July 1912 | 0.244 | Aug 1908 | 0.521 | July 1918 |
| 19 | Sept 1907 | 0.566 | July 1918 | 0.259 | July 1927 | 0.500 | June 1911 |
| | | 0.563 | May 1913 | 0.270 | June 1923 | 0.489 | July 1922 |
| | | 0.559 | June 1925 | 0.281 | May 1918 | 0.477 | June 1917 |

McCOTTER: Ty Cobb's Splits



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

Cobb tended to steal more bases late in the season, in September and October. His 28 steals in one month, June 1915, has been surpassed only three times—twice by Rickey Henderson and once by Lou Brock.

season totals—but no game-by-game stats—and so I either had to research them myself or leave the totals blank; and

The official sheets are riddled with errors—players' lines switched, numbers transposed, and arithmetic errors.

As a result, I am still combing through Cobb's stats, looking for additional corrections that may need to be made, and I'm also working on cataloging Cobb's pre-1920 RBI. I present details below of a few of the errors that I came across in Cobb's official sheets. This list is nowhere near complete.

Oct 1 and 2 (game 1), 1907: Cobb's steals and sacrifice bunt totals were transposed on the ledger sheets, giving him five too many sacrifice bunts and five too few stolen bases.

1909: Addition error on first page of Cobb's sheets over-credited him by one run.

1911: Addition error on second page of Cobb's sheets over-credited him by one at-bat.

May 9, 1912: Cobb hit a home run but wasn't given a run scored on the official sheets.

The fielding stats of the time are in even worse shape than the batting stats are. For instance, Cobb played at second base in the final game of 1909, but I did not discover this fact for almost one hundred years!

CONCLUSIONS

The splits above can help us compare Cobb's numbers to modern-day greats, whose splits and numbers are available at the click of a mouse on Retrosheet.org and baseball-reference.com. Until now, we've never known if Cobb was a product of a friendly home ballpark, or if he struggled against lefties, or how he really hit against Walter Johnson. Now we finally have numbers to back up the proposition that Cobb could hit pretty much any pitcher at any stadium during any month of the year!

As a final interesting note: Several sources have claimed that only one man has ever pinch-hit for Ty Cobb. Bob Fothergill is usually identified as the lucky man. However, in my research going through Cobb's game-by-game stats, I discovered that there have actually been several men to pinch-hit for Cobb. Here is the list of those known to have done it:

| DATE | INN | PITCHER | RESULT |
|---------------|-----|----------------|---------|
| 24 April 1906 | 9th | Sam Crawford | 1-for-1 |
| 30 May 1906 | 8th | Fred Payne | 1-for-1 |
| 17 Sept 1906 | 9th | George Mullin | 1-for-1 |
| 22 June 1912 | 9th | George Mullin | 0-for-1 |
| 18 June 1921 | 9th | Chick Shorten | 1-for-1 |
| 5 May 1922 | 9th | Bob Fothergill | 0-for-1 |



Notes

I'd like to thank Steve Gietschier, Pete Palmer, Bob McConnell, and all the volunteers at Retrosheet for contributing info used in this article.

1. It's also well known that Cobb's numbers are constantly changing. Cobb originally was listed with 4,191 career hits. However, a missing hit from 1906 bumped the total to 4,192. Two hits being double-entered in 1910 reduced it to 4,190. An error from 1912 reduced it further to 4,189; however, writer Mark Stang and I recently came across a canceling error from 1912 that put Cobb back at his current total of 4,190 hits.

James Lanier, Ty Cobb's Batboy

Growing up in Augusta, Georgia, James Lanier was Ty Cobb's neighbor and a close friend and contemporary of Cobb's son, Herschel. In the 1920s when Cobb was player-manager for the Detroit Tigers, Lanier served as the team's batboy during its spring training in Augusta and for several summers in Detroit. Earning five dollars a week, Lanier spent many hours at the ballpark, where his duties included bone-rubbing Cobb's bats, to keep them from breaking, and shining his cleats. Now in his ninetiess, Lanier often reminisces about baseball greats he has met, from Cobb to Babe Ruth, Tris Speaker, and Connie Mack. The two remained close, even after Lanier moved to Atlanta and raised a family. The following is based on conversations Lanier had with Millard Fisher, a close personal friend, in spring 2007.

Ty Cobb's basestealing ability had a great influence on the game. The opposition knew that Mr. Cobb was a fast and daring runner and that he would not hesitate to steal any base, including home. It not only put a tremendous amount of pressure on the pitcher worrying about him as a base runner, but it also took the pitcher's concentration off the batter (in his effort) to throw strikes.

* * *

Ty Cobb was a threat to steal any base in any situation regardless of the score, pitch count, or batter. People talked about how he sharpened his spikes, but the story is a rumor. He didn't sharpen his spikes. I cleaned his shoes. I dug dirt and clay out of his shoes and I didn't see any sign of sharpening his spikes.

* * *

Ty Cobb set an example for the other players on the team by leading an unbelievably rigorous daily training and practice routine. The other players could not keep up with him.

He would say constantly, "Practice, practice, practice!" Mr. Cobb would run the bases "for time" over and over and spend a couple of hours every day just bunting the ball.

I believe that Ty Cobb's tireless efforts, rigorous training program, and striving to be the best reflects back to the rigidity of his father. Without question, Mr. Cobb was the best base-stealer that I ever saw.

— Millard J. Fisher

What Inspired “Take Me Out to the Ball Game”?

Steven A. King

IN THE SPRING OF 1908 a young songwriter and vaudeville performer named Jack Norworth was riding on a New York City subway (or, in some tellings, an elevated train) when he saw an advertisement for a Giants game at the Polo Grounds.¹ Inspired by the image, he pulled paper and pencil from his pocket and rapidly wrote the lyrics to a new song. Albert von Tilzer, a composer and publisher with whom Norworth had previously collaborated, set the words to music and so was born “Take Me Out to the Ball Game,” the most famous baseball song of all time,

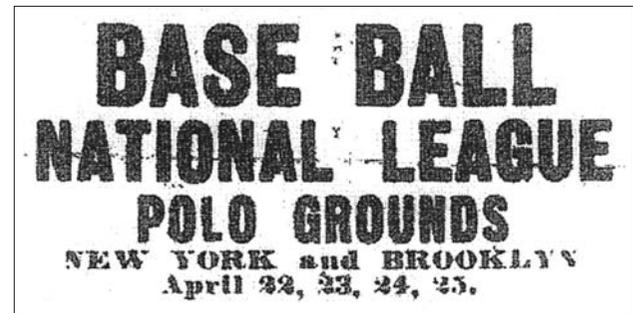
Or so the story goes. Norworth and von Tilzer appear to have written the song, but the rest of this frequently told tale probably has about as much validity as the one about Abner Doubleday and the invention of baseball.

To begin with, Norworth apparently didn’t mention the role of the famous ride until after the fiftieth-anniversary celebration of the writing of the song.² Nor is there any evidence that there were advertisements for baseball games in either the subways or elevated trains in New York City in 1908.³ Furthermore, by 1908 Norworth was successful enough to own an automobile, raising the question why he would be riding on New York City public transportation, which was already considered to be both crowded and malodorous.⁴

If Norworth’s inspiration for the song didn’t involve a train ride, what exactly was its source? In those days, long before the invention of television and when radio messages were sent by Morse Code, baseball was likely to be brought to his attention if one of two things happened—someone mentioned baseball to him or he noticed an advertisement similar to the one that he was supposed to have seen on the subway. As “Take Me Out to the Ball Game” was copyrighted on May 2, 1908, and the New York Giants’ home opener that year wasn’t until April 22, the event that fired up Norworth’s creative juices may well have occurred during the last ten days of April.

The likelihood that Northworth had a conversation about baseball is slim. One of the delicious ironies about Norworth and von Tilzer composing the greatest of all baseball songs is that both would later deny having seen a baseball game before they wrote “Take Me Out.” Whether this is true or not, there is nothing to

indicate that, at the time the song was written, either man was, to use the parlance of the day, a baseball “bug.” Although the fandom of many other show-business professionals—playwright and composer George M. Cohan, for example, often played in exhibition games for charity and was a close friend of New York Giants manager John McGraw—was frequently reported in the newspapers of the day, the names of Norworth or von Tilzer do not appear in this context.



On the last day of the Giants’ first home series, this ad for the four games appeared in the *New York Clipper*. Jack Norworth’s “Take Me Out to the Ball Game” was copyrighted about a week later, on May 2, 1908.

Their apparent lack of interest in baseball is further indicated by the lyrics of “Take Me Out,” which demonstrate at best a rudimentary knowledge of the game.

Therefore, the most likely explanation is that Norworth was inspired by something he read. In New York in 1908, there were at least 13 major English-language newspapers published daily in Manhattan and another three published in Brooklyn. Most covered sports to varying degrees and, during the baseball season, often contained ads for games being played that day. However, the ads usually ran alongside news of baseball on the sports pages, making it doubtful Norworth would have noticed them.

We are also left with the question of which, if any, of the papers Norworth read in April 1908? We can’t know for certain but there are at least two newspapers Norworth, and also von Tilzer, probably regularly perused: the weekly theatrical newspapers, *Variety* and the *New York Clipper*. The evidence for their attention to these papers is their advertising their work in them: The first ads for “Take Me Out to the Ball Game” appeared in the May 2, 1908, issues of both papers.

NEW YORK CLIPPER, 25 APRIL 1908, 277

CRACKER JACK
The Biggest Popcorn Seller in the World
A POPULAR 5c. PACKAGE
Sold by Concessionists Everywhere
A Winner and Repeater

A large line of 5c. and 10c. package Confections especially suited to Amusement trade—Chocolates and Bon Bons in fancy boxes for Candy Wheels, Popcorn Bricks and Chewing Gum.

CHUMS—The Latest and Best PRIZE PACKAGE Popcorn confection.

Special Proposition to Concessionists naming the privileges they control.

RUECKHEIM BROS. & ECKSTEIN
237 S. PEOBIA STREET - CHICAGO

“Buy me some peanuts and Cracker Jack”: This ad for Cracker Jack appeared in the same issue of the *Clipper*, thirteen pages after the Giants’ ad for their series against Brooklyn.

Variety of 1908 is similar to the *Variety* of a century later; it was devoted to news of interest to show business professionals. Until the beginning of the twentieth century, the *Clipper* carried both theatrical news and extensive coverage of sports, most notably baseball. Although by 1908, it had eliminated the latter, in the April 25, 1908 issue of the *Clipper* an advertisement appeared on page 264 for the opening home games of the New York Giants at the Polo Grounds on April 22, 23, 24, and 25.

Obviously, it is impossible to know if Norworth saw this ad but there is a good chance that he did. It sounds very similar to the one that he supposedly noticed on the subway. Also, it is in the middle of a page of show business news and advertisements. It is far more likely that Norworth would have read it rather than the sports page of a newspaper.

There is one other item that appears in the same issue of the *Clipper* that provides further evidence. On page 277 there is an ad for one of the two snack foods mentioned by name in “Take Me Out to the Ball Game”: Cracker Jack. Despite the ad’s claim that it was “The Biggest Popcorn Seller in the World,” of all the New York newspapers only the *Clipper* frequently carried ads for it.

We thus have references to both baseball and Cracker Jack published in a newspaper Jack Norworth would have been reading at the time he wrote his lyrics, making the *Clipper* the most likely source of his inspiration. ■

Notes

1. *The Sporting News*, 9 September 1959, 35.
2. Geoffrey C. Ward, Ken Burns, *Baseball: An Illustrated History* (New York: Alfred A. Knopf, 1994), 96-97.
3. Andy Strasberg, Bob Thompson, Tim Wiles, *Baseball’s Greatest Hit: The Story of Take Me Out to the Ball Game* (New York: Hal Leonard Books, 2008), 19.
4. *Baseball’s Greatest Hit*, 21.
5. *Variety*, 1 August 1908, 5.
6. Even if the ad that inspired Norworth was for the New York American League team, the same case could be made for the *Clipper* as the source. In the April 18, 1908, issue there appeared an ad for the first games of that team’s season beginning on April 14 and also the same ad, for Cracker Jack, as in the April 25 issue.

BASEBALL AND LAW

The Sport of Courts

Baseball and the Law

Ross E. Davies

WHAT WE HAVE in this special section of *The Baseball Research Journal* are six snapshots of events and personalities from the wide world of baseball and the law:

- Roger Abrams on arbitration and the 1975 Andy Messersmith reserve-clause case (page 79);
- Samuel Alito on the Supreme Court's 1922 decision in *Federal Baseball Club of Baltimore v. National League of Professional Base Ball Clubs*—the original baseball antitrust-exemption case (page 86);
- a sketch I wrote of William R. Day, Supreme Court justice (1903–22) and arguably the most ardent baseball fan in the Court's history (page 94).
- the late Gene Carney on the 1919 Black Sox investigation supervised by the law firm now known as Mayer Brown LLP (page 108);
- my study of Justice Harry Blackmun's 1972 list of baseball greats in *Flood v. Kuhn*—the most recent Supreme Court decision upholding the baseball antitrust exemption (page 117); and
- Mark Armour on the attempt by two American League umpires, Bill Valentine and Al Salerno, to organize an umpires' union in the 1960s (page 126).

Before enjoying these close-ups of baseball's relations with the law, though, we might find it worthwhile to step back for a moment and get a sense of just how big the big picture of "baseball and the law" is. And it is indeed quite big. Consider, briefly, the length, breadth, and depth of the relationship between the two. In order to tell a livelier tale, I will shift back and forth between recent years (evidence of the vibrant relationship between baseball and law today) and the late nineteenth and early twentieth centuries (proof that it has been vibrant for a long time) and will deal only sketchily even with those periods. One should not construe that the baseball-law relationship was any less interesting at other times or that there isn't much more to be said about all eras.¹

LENGTH

As John Thorn has recently shown with his discovery of the 1791 "Pittsfield Prohibition," baseball—and the legal regulation of the game—go back at least as far as the founding of the United States.²

And as Roger Abrams, a leading law-and-baseball scholar,³ crisply and correctly puts it, the "relationship between baseball and the legal process dates from the earliest days of the organized game." His evidence, too, is truly foundational: In 1845, "young men from New York City ferried across the Hudson River to Hoboken, New Jersey, to play the sport on the Elysian Fields cricket pitch; they signed a formal lease contract, paying seventy-five dollars for use of the field."⁴ And what is a contract, after all, but "a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty"?⁵

Baseball and the law have been going steady ever since.

By the end of the nineteenth century and throughout the twentieth century, baseball was frequently the subject of litigation (in federal,⁶ state,⁷ and municipal⁸ courts, and before arbitrators⁹); of legislation (in Congress,¹⁰ state assemblies,¹¹ and town councils¹²); and of regulation (by presidents,¹³ governors,¹⁴ and mayors,¹⁵ and their minions¹⁶). That pattern has persisted, and perhaps even intensified, in the early years of the twenty-first century. In just the month of October 2009, for example, courts issued reported opinions in 135 cases involving baseball in one way or another.¹⁷

Which brings us to breadth.

BREADTH

The broad scope of baseball's interaction with the law is revealed not only in the range of legal institutions at all levels of government that attend to baseball and baseball-related matters, but also in the numerous and colorfully various legal issues that arise in and around baseball. What follows is not an inventory or even an outline of those interactions, but, rather, a sampler of cases, statutes, regulations, and other forms of law throughout history that highlight some of the directions in which baseball carries the law, and in which the law carries baseball.

Modern Times. Headline-grabbing modern examples of the relationship between baseball and law come easily to mind.

In 2002, for example, it was a state court (the Superior Court of San Francisco County, California) that determined who owned Barry Bonds's 73rd home-run ball of the 2001 season. The judgment of the court was Solomonic: "plaintiff [Alex Popov] and defendant [Patrick Hayashi] have an equal and undivided interest in the ball. . . . In order to effectuate this ruling, the ball must be sold and the proceeds divided equally between the parties."¹⁸ More recently, a federal court of appeals in the Midwest ruled that a fantasy-baseball operator's "first amendment rights in offering its fantasy baseball products supersede the players' rights of publicity."¹⁹ And it wasn't that long ago (the late 1980s) that the fight between men referred to in judicial opinions as "Peter E. Rose" and "A. Bartlett Giamatti" was wending its way through state and federal courts in Ohio.²⁰ Also in the late 1980s, it was at the hands of arbitrators (essentially, private judges created and empowered by contract)²¹ that team owners learned that their exemption from federal antitrust law²² did not extend to federal labor law and that they would not be permitted to collude in violation of a collective bargaining agreement to deprive free agents of a market for their services.²³

Then there is the steroids scandal, much of which is being played out in the presence of judges, legislators, prosecutors, and grand juries. For the past several years, Congress, while considering such legislation as the Clean Sports Act of 2005 and the Professional Sports Integrity and Accountability Act, has been ferreting out the details²⁴ and urging the Department of Justice to investigate witnesses who might have lied to congressional committees.²⁵ Meanwhile, in one federal court, government agents investigating the scandal were recently ordered to return records improperly seized from drug-test administrators,²⁶ while, in another court, proceedings are ongoing against Barry Bonds for alleged false statements to a grand jury investigating unlawful steroids use.²⁷ And so on ad nauseum.

And for every one of those famous bits of "baseball and the law," there are many more obscure developments—some numbingly routine, some highly technical, and some entertainingly odd or illuminating.

In the routine category: In September 2009, a New York state court decided the most recent in a long line of cases in which a spectator is injured by a foul ball and then sues the home team (and everyone else connected with the incident, the team, or the ballpark). The spectator lost, as most spectators do,

notwithstanding the sometimes tragic injuries they suffer.²⁸ Similarly, it seems there is always litigation involving some aspect of the big-dollar, big-controversy business of ballpark construction. In the summer of 2009, some of the action was in Miami-Dade County, where bonds used to build the home of the Florida Marlins were at issue,²⁹ while in 2008 one developer was in court in Washington, D.C., seeking to prevent the sale, to a competitor, of valuable real estate near the Nationals' new stadium.³⁰ In 2007 a bankrupt subcontractor was suing the general contractor that had completed Citizens Bank Park for the Philadelphia Phillies in 2004.³¹ And the number of criminal cases involving defendants alleged to have worn a "baseball cap" or wielded a "baseball bat" is depressing.³²

High technicality appropriately obscures some baseball cases, but there are a few, at least, that are important enough to merit attention despite the technical tedium. At the Supreme Court, for example, 2001 was a year of decisions of just that sort. Adding nuance to the scope of judicial review of labor-arbitration decisions, the Court upheld the power of an arbitrator to deny a player's claim (in particular, Steve Garvey's for \$3 million) from the fund established to compensate players for losses caused by owner collusion against free agents in the mid-1980s.³³ And in a case brought by the Cleveland Indians (and supported by the Major League Baseball Players Association), the Court held that, when a player is paid out of that fund, Social Security and federal unemployment taxes are to be paid by both the player and his employer (the team owner) at the rates applicable when the payout is made, not at the rate that would have applied if the player had been paid properly in the first place (back in the mid-1980s). Since Social Security and unemployment tax rates have been rising for years, more taxes are paid by the player and the team owner.³⁴

More entertainingly, and probably quite prudently, in May 2009 the Department of Homeland Security issued a Temporary Final Rule under which

[t]he Coast Guard is establishing a temporary safety zone for the waters of the Allegheny River from mile marker 0.4 to mile marker 0.6, extending the entire width of the river. This safety zone is needed to protect spectators and vessels from the hazards associated with the Pittsburgh Pirates Fireworks Display. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port Pittsburgh or a designated representative.³⁵

DAVIES: The Sport of Courts

Apparently, errant baseballs striking fans are one thing, but errant flaming projectiles striking watercraft are something else entirely.

Even more clearly in the entertaining category is a 2009 case in which Samuel Steele (a songwriter) sued Turner Broadcasting System, Jon Bongiovi (leader of the rock-and-roll band Bon Jovi), and a host of other people and companies for copyright infringement. Steele claimed they had copied lyrics and music from “Man I Really Love This Team”—a “love anthem” he had written in honor of the Boston Red Sox—and used them in the Bon Jovi song “I Love This Town” and an associated TBS promotional video. Finding that “no reasonable juror . . . could find that the original elements of the Steele Song are substantially similar to the Bon Jovi Song or the TBS Promo,” the court ruled against Steele. Perhaps more devastating to Steele than the legal humiliation was the artistic one. In the course of rejecting Steele’s claims, the court found that some of Steele’s lyrics were “too trite and common to warrant protection.” The court also explained that some of his lyrics could not be protected by copyright law because “common expressions and clichés are not copyrightable,” and it noted in particular that “the fact that both songs rhyme ‘round’ with ‘town,’ is also commonplace since it is found in the popular children’s song ‘The Wheels on the Bus.’”³⁶ Ouch. Nor is Steele the only frustrated baseball-song writer to have been disappointed in court recently. Jacob Maxwell (a songwriter) sued Michael Veeck (executive director of the Fort Myers Miracle minor-league baseball team) and a variety of other people and organizations over the rights to a theme song—“Cheer! The Miracle Is Here”—that Maxwell had written for the team in 1993. During the 1993 season, Maxwell persistently requested that the team play the song at games (which it did) and pay him the agreed-to fee for the song (which it did not do). Eventually, Maxwell sued for copyright infringement. He lost, in part because he had been so laid-back about letting the Miracle play the song at games without paying him: By doing so he had given the team an “implied nonexclusive license” to play the song. The dispute must have taken the fun out of playing the song, though, because the Miracle used it for the last time on August 27, 1993.³⁷

Illuminating use of baseball in the law sometimes occurs in cases in which neither the game nor the business is at issue.³⁸ Consider, for example, the dissent, in June 2009, of Supreme Court Justice Ruth Bader Ginsburg in *Ricci v. DeStefano*, an important civil-rights case involving the testing and promotion of firefighters in New Haven, Connecticut. Ginsburg

brought baseball into the picture ever so briefly but usefully in a footnote to her discussion of the limitations of written examinations as predictors of on-the-job performance:

[T]here is a difference between memorizing . . . fire fighting terminology and being a good fire fighter. If the Boston Red Sox recruited players on the basis of their knowledge of baseball history and vocabulary, the team might acquire [players] who could not bat, pitch or catch.³⁹

In a more recent case (September 2009), the Township of Tinicum passed a law imposing a tax on all aircraft landing within its borders (some of the runways at Philadelphia International Airport are actually in Tinicum), and the U.S. Department of Transportation declared the law invalid. Tinicum appealed to the U.S. Court of Appeals for the Third Circuit, which ruled in favor of the Department of Transportation. In the course of his opinion for the court, Judge Michael Chagares explained the meaning of the phrase “only if” (the words appeared in the statute empowering the Department of Transportation to invalidate Tinicum’s tax law):

The phrase “only if” describes a necessary condition, not a sufficient condition. . . . A necessary condition describes a prerequisite. . . . For example, making the playoffs is a necessary condition for winning the Major League Baseball World Series because a team cannot win the World Series if it does not make the playoffs. Using the “only if” form: a team may win the World Series only if it makes the playoffs. But, a team’s meeting the necessary condition of making the playoffs does not guarantee that the team will win the World Series.⁴⁰

There is no shortage of similar exercises, including Judge Janice Rogers Brown’s dissent in an employment discrimination case in the U.S. Court of Appeals for the District of Columbia Circuit, in which she contrasted Randy Johnson’s poor performance as a batter with his extraordinary career as a pitcher, all to make the point that “often even a serious deficiency can be offset by other compelling considerations.”⁴¹ And Vice Chancellor John W. Noble’s opinion in a surety-bond case in the Delaware Chancery Court, in which he explained the difference between having one’s debt rated by Standard & Poor’s and using Standard & Poor’s guidelines to conduct one’s own rating:

An analogy to the game of baseball illustrates the importance of this distinction. A pitch may be belt-high, over the middle of the plate, thus, satisfying all objective criteria for classification as a strike. See Rule 2.00, *Official Rules of Major League Baseball* (“The strike zone is that area over home plate the upper limit of which is a horizontal line at the midpoint between the top of the shoulders and the top of the uniform pants, and the lower level is a line at the hollow beneath the knee cap.”). That pitch, however, for purposes of the game, is not a strike unless and until the home plate umpire makes the call. See *id.* (“A strike is a legal pitch when so called by the umpire, which . . . (b) [i]s not struck at, if any part of the ball passes through any part of the strike zone.”).⁴²

These days, it seems, where goes baseball, there goes the law, and vice versa.

The Old Days. But was it ever any different? Was there, long ago, a time when baseball had no use for the law? Roger Abrams has answered that question with an authoritative No.⁴³ Moreover, while the number of baseball-related lawsuits has certainly risen over the years (a subject touched on in the section “Depth” below), variety seems to have been a hallmark of the connections between baseball and the law from the beginning.⁴⁴ The Supreme Court, for example, heard its first baseball case in 1884—a dispute over a patent relating to the manufacture of baseballs.⁴⁵ By then, Congress and the lower federal and state courts had for years been hearing testimony about (and commenting on) baseball in contexts ranging from patent law,⁴⁶ to notes and bonds issued by the U.S. Treasury,⁴⁷ to railroad accidents,⁴⁸ to the treatment of veterans,⁴⁹ to beer-fueled violence,⁵⁰ to church governance,⁵¹ to the reserve clause,⁵² to pickpocketing.⁵³

Therefore, stepping back a century or so to the early decades of baseball-law interaction, we should not be surprised to see that, in the early years, baseball and the law were making headlines together with stories to match our modern examples.

There were, at least in retrospect, two especially big cases. First, there was the Black Sox prosecution, in which eight Chicago White Sox players were indicted in 1920 and reindicted in 1921 for conspiring to throw the 1919 World Series between the White Sox and the Cincinnati Reds. They were tried before a jury in Illinois state court, and acquitted. But they were punished anyway when baseball commissioner

Kenesaw Mountain Landis banned them from Organized Baseball for life.⁵⁴ Second, at about the same time, there was *Federal Baseball Club of Baltimore v. National League of Professional Base Ball Clubs*,⁵⁵ which was both the first baseball antitrust case to reach the U.S. Supreme Court and the culmination (or, really, the anticlimax) of the war between the upstart Federal League and the established American and National Leagues. This case receives a thorough treatment in Samuel Alito’s article (page 86).

Other interesting and widely followed cases also arose in the early years, including one in which Kenesaw Mountain Landis was the accused rather than the judge. In 1921, as the *Federal Baseball* case was making its way from the lower federal courts to the Supreme Court,⁵⁶ Landis was serving both as a federal judge in Chicago and as the first commissioner of Major League Baseball. As a result, he found himself on both sides of the legal process—meting out justice in his own courtroom⁵⁷ and feeling its bite in Congress. On February 2, Congressman Benjamin Welty of Ohio introduced in the House of Representatives a resolution calling for a legal investigation of Landis’s dual officeholding.⁵⁸ On February 14, Welty proposed impeaching Landis, even though Attorney General A. Mitchell Palmer had determined that no law prevented Landis from holding both jobs at the same time.⁵⁹ “The most general opinion,” reported the *New York Times*, “is that Judge Landis has violated no law, but he is criticised on the ground that he has lowered the standard of the bench and legal ethics by accepting the position of baseball arbiter.”⁶⁰ On February 21, the House Judiciary Committee held a hearing on the Landis impeachment, during which his judgment and ethics were mightily abused,⁶¹ and Welty submitted his proposed impeachment:

I impeach Kenesaw M. Landis as district judge of the United States for the Northern District of Illinois, . . . as follows:

First. For neglecting his official duties for another gainful occupation not connected therewith.

Second. For using his office as district judge of the United States to settle disputes which might come into his court as provided by the laws of the United States.

Third. For lobbying before the legislatures of the several States of the Union to procure the passage of State laws to prevent

DAVIES: The Sport of Courts

gambling in baseball, instead of discharging his duties as district judge of the United States.

Fourth. For accepting the position as chief arbiter of disputes in baseball associations at a salary of \$42,500 per annum while attempting to discharge the duties as a district judge of the United States which tends to nullify the effect of the judgment of the Supreme Court of the District of Columbia and the baseball gambling indictments pending in the criminal courts of Cook County, Ill.

Fifth. For injuring the national sport of baseball by permitting the use of his office as district judge of the United States, because the impression will prevail that gambling and other illegal acts in baseball will not be punished in the open forum as in other cases.

Wherefore said Kenesaw M. Landis was and is guilty of misbehavior as such judge and of high crimes and misdemeanors in office.⁶²

With the end of the congressional session approaching, the judiciary committee failed to come to a conclusion on the Landis impeachment, but members of the committee did manage to leak to the media their intense hostility to Landis's dual officeholding.⁶³ Welty's move to impeach Landis fizzled later in 1921, probably because what Landis was doing was indeed

not prohibited by any controlling legal authority, even if it was shameful, and therefore could not provide the basis for impeachment. Furthermore, Welty had failed to gain reelection to the House and so was not available to carry the torch.⁶⁴ But other legislators took up the cause.⁶⁵ In addition, the American Bar Association censured Landis,⁶⁶ and the news media kept the issue in the public eye and some editorialized against him.⁶⁷ Eventually, Landis gave up his judgeship, sending his resignation to President Warren G. Harding on February 18, 1922. Ironically, Landis's stated reason for quitting was closely related to the concern underlying the first count of Welty's impeachment. In his statement to the press, Landis said, "There aren't enough hours in the day for me to handle the courtroom and the various other jobs I have taken on. . . . I am going to devote my attention in the future entirely to baseball."⁶⁸ Landis insisted to the end that he would not be pressured into resigning his judgeship.⁶⁹ Nevertheless, his case certainly appears to be a good example of the power of threatened or initiated legal proceedings to inspire an opponent to do what one seeks, even without seeing a case through to judgment.

In 1901 and 1902, in perhaps the most famous celebrity-player case of the early twentieth century, the Philadelphia Phillies pursued one of their own star players in courthouses from eastern Pennsylvania to Northern Ohio. In the wake of a salary dispute in 1900 with the Phillies, second baseman Napoleon Lajoie left the team to sign a contract with Connie Mack's Philadelphia Athletics in the then new American League.⁷⁰ Lajoie enjoyed a brilliant 1901 season with the Athletics,⁷¹ while the Phillies' high-profile lawsuit seeking an injunction that would force him back into the fold slowly made its way through the Pennsylvania court system.⁷² When the Phillies finally prevailed in the Pennsylvania Supreme Court in April 1902,⁷³ it was front-page news.⁷⁴ But it was a fruitless victory. Lajoie promptly signed with the Cleveland Bluebirds of the American League,⁷⁵ and, when the Phillies sought to enforce their injunction in Ohio, an Ohio federal court refused to hear the case and an Ohio state court held that Lajoie was free to play for any team willing to employ him, or at least any Ohio team.⁷⁶ (An early example, perhaps, of home-field advantage in baseball and the law.)⁷⁷

Then as now, for every celebrated case there were many less noticed ones, some interesting or important or both, some not so much. Here are just a few examples from a variety of areas of law, presented in a question-and-answer format akin to preparation for the bar exam. Some (but almost certainly not all) of these

LIBRARY OF CONGRESS, LC-DIG-NPCC-11282



Kenesaw Mountain Landis was criticized, in Congress and the media, for serving in two capacities simultaneously—as commissioner of baseball and as a federal judge in Chicago. Calls for him to resign his judgeship persisted for more than a year before he stepped down in February 1922.

cases might have been familiar to the lawyers who served on the House Judiciary Committee or represented the Black Sox, the leagues, Lajoie, the Phillies, or other players in the early world of baseball and the law:

• **Customs (Imports and Exports)**

Is a baseball a toy?

No: “[B]aseball, a development of the schoolboy game of ‘one old cat,’ . . . [is a] game[] played by and eminently fitted to amuse children. . . . In the popular mind, however, . . . balls and bats . . . are not regarded as toys, for the simple and sensible reason that they are not the implements of games which are exclusively the diversions of children.”⁷⁸

• **Evidence**

Is a dislike for baseball evidence of insanity?

No: The fact that an individual “spoke disparagingly of baseball games and advised [someone] not to attend them” was “valueless and without weight as a basis for the opinion that” the speaker “was mentally incapable of making [a] will.”⁷⁹

Is associating with a professional baseball player evidence of sanity?

No: Lulu Kennedy was tried for the murder of her husband, Philip Kennedy. Her defense was insanity. She was convicted. At the trial, the prosecution presented evidence that Lulu had socialized with “one Case Patten, a professional baseball player” during the summer of 1900, before her marriage to Philip.⁸⁰ (By the time of the trial, Patten was pitching for the Washington Senators.)⁸¹ When Lulu appealed her conviction to the Missouri Supreme Court, the prosecution attempted to justify the presentation of evidence about her association with Patten by claiming it helped “to show she was perfectly rational, and that her conduct was that of a sane, and not an insane, person, as the defendant intimated she was.” The court did not believe it, ruling that the prosecution’s explanation was “absolutely untenable, for the record shows that it was not offered for any such purpose, but was offered for the sole purpose of besmirching defendant’s character,” and reversing Lulu’s conviction.⁸²

• **Crime**

Is a baseball bat a deadly weapon?

Maybe: “An instrument may or may not be a deadly weapon, depending on the manner in which it is used. It is probable that a riding-whip should not be so regarded. A base-ball bat, if viciously used, probably should be.”⁸³



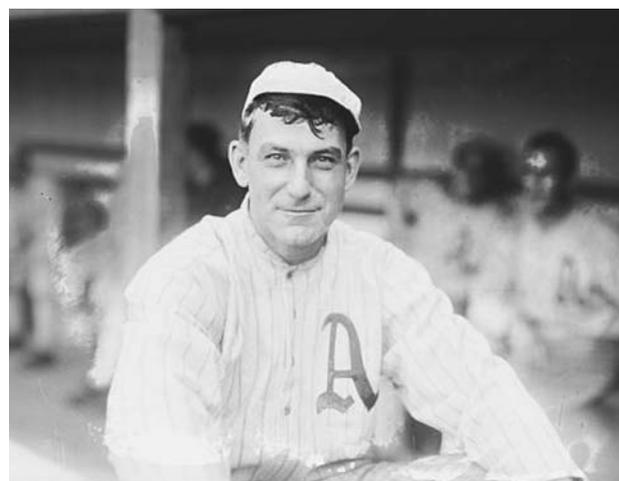
LIBRARY OF CONGRESS, LC-DIG-HEC-18520

Representative Benjamin Welty, Democrat from Ohio, led the effort in 1921 for a legal investigation of Landis’s dual officeholding and shortly thereafter introduced articles of impeachment. The effort fizzled largely because what Landis was doing was not illegal, even if it was shameful.

And maybe not: “A baseball bat is not per se a deadly weapon, and especially is it not a deadly weapon when considered without reference to its use.”⁸⁴

Is it lawful to punch the umpire over “a decision unpopular among the partisans of one baseball team in a match”?

No: “The witnesses in the case are not in accord on the exact details of the affair, which culminated in a blow . . . that knocked down and broke the nose of a baseball umpire named Kerin, but there is nothing in the record throwing the least doubt on the fact that the blow was given in anger and wholly without legal justification. . . . The penalty [a \$75 fine] was by no means unduly severe for the offense. . . . The conviction seems to us to have been justifiable and the penalty light, and the judgment is affirmed.”⁸⁵ Nor is it lawful to shoot the umpire in a dispute over the score of a game.⁸⁶



LIBRARY OF CONGRESS, LC-DIG-GGBAIN-19545

After a salary dispute with the Phillies in 1900, Nap Lajoie signed with the Philadelphia Athletics of the newly formed American League. The Phillies, seeking an injunction, finally won a lawsuit in the Pennsylvania Supreme Court, but only after he had signed with the Cleveland Bluebirds, and an Ohio federal court refused to hear the case.

DAVIES: The Sport of Courts

• Criminal Procedure

During a capital murder trial, may the “sheriff and one of the officers sworn to take charge of the jury [take] them to a baseball game, where there were some manifestations by people present well calculated to be interpreted by the jury as” encouragement to convict the accused?

No: “If it can be said that such gross misconduct on the part of a jury as took place upon the trial of this case can be passed over as not prejudicial to the accused, . . . the constitutional right to a trial by jury with substantially the common-law safeguards to prevent a miscarriage of justice, must be considered as having been effectually laid aside.”⁸⁷

• Morality (Blue Laws)

May baseball be played on Sunday, in 1900?

Yes, at least in Missouri: According to the Supreme Court of Missouri, interpreting a general statute that says that “[e]very person who shall be convicted of horse racing, cock fighting or playing at cards or games of any kind, on the first day of the week, commonly called Sunday, shall be deemed guilty of a misdemeanor, and fined not exceeding fifty dollars” to apply to playing baseball would “impair [citizens’] natural rights to enjoy those sports or amusements that are . . . neither immoral, nor hurtful to body or soul.” And so the court concluded that, unless the state legislature passes a law explicitly prohibiting baseball on Sundays, “there is no law in this state which prevents playing a game of baseball on Sunday.”⁸⁸

And no, at least in Michigan: “What is the legal character of the game of baseball played upon the Sunday in question?” the Supreme Court of Michigan asked itself. It answered, a Sunday “game of baseball was a breach of the peace” under a state statute “which imposes a penalty of not to exceed \$10 for such offense.”⁸⁹

• Torts

Is baseball a nuisance?

Yes, if players and spectators don’t behave: When a baseball game is carried on under the following conditions, the neighbor of a baseball diamond has a valid nuisance claim: “(1) The driving of the balls upon [the neighbor’s] grounds, and the consequent trespassing upon his grounds to recover the balls, by which his use of his grounds is rendered dangerous, his peace and quiet interfered with, and his property destroyed. (2) The noise occurring in the game itself, by the shouts of the players and spectators, and the loud, profane, and obscene language used by the players or spectators, and

audible at his residence, together with the noise of fights and brawls during the games. (3) The . . . collection of large numbers of idle and disorderly persons in the neighborhood of the grounds, and of [the neighbor’s] house, while the games are in progress, which crowds, by their noise, vile language, and behavior, disturb the peace and quiet of the neighborhood, and subject complainant and other residents to insults and abuse, if they venture from their homes.”⁹⁰

And no, if players and spectators do behave: “This court takes judicial notice of the fact that the game of baseball, when properly conducted, is an innocent public amusement, and constitutes the most popular and entertaining public pastime or sport of the American people. It is known from one end of our country to the other as the great American game, and is patronized by all classes, conditions, and sexes of our people, both old and young.”⁹¹

Is a fan struck by a foul ball entitled to compensation?

Rarely: As the parties agreed in the 1913 case of *Crane v. Kansas City Baseball & Exhibition Co.*, “Baseball is our national game, and the rules governing it and the manner in which it is played and the risks and dangers incident thereto are matters of common knowledge.” And one of those risks, the court ruled, is being injured by a foul ball, especially when sitting in seats not screened off from the field of play.⁹²

• Takings

Must the state pay if it quarters its militia on a baseball field?

Maybe: Because “[i]t is for the state, in its sovereign capacity, to determine whether compensation will be made out of its treasury,” even when “two regiments took possession of the grounds or park of the appellee league ball club, occupied the same as and for an encampment ground, and remained there for a period of 20 days. The possession of the park was taken, and the troops encamped therein, without the knowledge or consent of the appellee club, the owner thereof. . . . [And] the militiamen, while in possession of the park, dug holes in the baseball diamond, drove horses pulling heavy caissons on and across the bicycle track, and broke down or damaged the turnstiles, ticket boxes, chairs, benches, etc., belonging to the club, causing injury and damage to the park and to the property of the club in the aggregate sum of \$2,352.05.”⁹³

(In this case, which arose from the famous Pullman labor strike of 1894, the Cubs were in fact awarded \$2,000.)⁹⁴

• **Intellectual Property**

Is the curveball patentable?

No: “It is . . . an art only in the sense that one speaks of the art of painting, or the art of curving the thrown baseball. Such arts, however ingenious, difficult, or amusing, are not patentable within any statute of the United States.”⁹⁵

In those days as well, it seems, where went baseball, there went the law.

DEPTH

The depth of a relationship—its “secret, mysterious, unfathomable . . . inmost . . . part”⁹⁶—is not as easily established as its duration (just look at a clock or calendar) or the diversity of activities it involves (just look at an inventory, or at least a representative sampler). Instead of simply measuring, we must observe and infer. To that end, what follows are two sets of data—one numerical, one anecdotal—that might lend support to an inference that the relationship between baseball and the law is more than casual. First, the by-the-numbers look compares the frequency with which baseball has appeared in some legal contexts to the frequency with which other major sports have appeared in those same contexts. Second, the anecdotal approach presents a few of the many law-to-baseball and baseball-to-law crossover stories, with an eye to exhibiting just some of the persistence and prominence of these connections.

By the Numbers. All sports have some level of engagement with the law. There are stories to be told about basketball and the law,⁹⁷ football and the law,⁹⁸ golf and the law,⁹⁹ soccer and the law,¹⁰⁰ even bocci and the law.¹⁰¹ But is any sport as engaged with the law as baseball is? Overall, the results of the simple exercises summarized below suggest that the answer is No: Nothing in the law of sport matches the frequency of baseball’s interaction with institutions of the law or the tendency of lawmakers who speak of sports to talk in baseball terms. This is not to say, however, that baseball has a corner on the legal mind. In some contexts, sports other than baseball are the leading figures. But even where baseball is not at the top, it tends to be close to it. Consider first the frequency with which baseball appears in judicial opinions in Westlaw’s widely used database “All Federal & State Cases,”¹⁰²

compared to other major sports such as basketball, football, golf, and soccer.¹⁰³ During the twentieth century, there were decades when golf or football appeared in more judicial opinions than did baseball, but baseball was always one of the top two or three sports in the courts, and in recent years the trend has been decidedly in baseball’s favor. And only baseball can claim that, on average, every working day of the past one hundred years witnessed yet another case in which baseball played a part of some sort:¹⁰⁴

**Table 1. Sports in the Courts
Mentions, by Decade, of Soccer, Basketball, Football,
Golf, and Baseball in Westlaw’s Database “All Federal
& State Cases,” 1900–2008**

| | Soccer | Basketball | Football | Golf | Baseball |
|----------------|--------------|---------------|---------------|---------------|---------------|
| 1900–09 | 0 | 2 | 43 | 57 | 190 |
| 1910–19 | 2 | 5 | 50 | 86 | 358 |
| 1920–29 | 5 | 20 | 154 | 266 | 428 |
| 1930–39 | 6 | 84 | 329 | 766 | 633 |
| 1940–49 | 19 | 110 | 366 | 655 | 581 |
| 1950–59 | 24 | 234 | 583 | 902 | 996 |
| 1960–69 | 42 | 440 | 966 | 1,468 | 1,110 |
| 1970–79 | 123 | 1,088 | 2,020 | 2,182 | 1,576 |
| 1980–89 | 416 | 2,084 | 3,805 | 3,266 | 3,221 |
| 1990–99 | 1,024 | 3,872 | 5,077 | 5,537 | 6,293 |
| 2000–08 | 2,752 | 5,787 | 7,675 | 9,334 | 10,433 |
| Total | 4,413 | 13,726 | 21,068 | 24,519 | 25,819 |

Certainly, these are rough and gross measures (as are all the measures used below) that capture some irrelevancies for every sport, but the idea is only to make a rough and gross point: that the judicial system deals with and speaks of baseball more than it does any other sport.

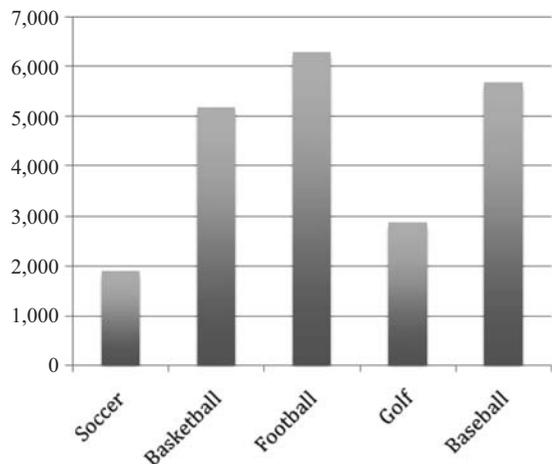
While baseball dominance in the courts seems pretty obvious, at least these days, the picture in the other great American law-making and law-enforcing institutions—legislatures and executives—is not so clear. For the past couple of decades, rates of major-sports mentions in Congress and by the president (the only institutions and period for which data across comparable institutions are consistently and conveniently available), suggest that, while baseball might be the clear leader in the courts, football has a plausible claim to at least a share of the top spot in the other branches of government. In the *Congressional Record* (“the official record of the proceedings and debates of the United States Congress”),¹⁰⁵ football is the clear leader since 1990, exceeding baseball by more than 600 mentions, or almost 11 percent:¹⁰⁶

DAVIES: The Sport of Courts

Table 2. Sports in Congress
Mentions of Soccer, Basketball, Football, Golf, and Baseball in Westlaw’s “Congressional Record” Database, 1900–2008

| Soccer | Basketball | Football | Golf | Baseball |
|--------|------------|----------|-------|----------|
| 1,895 | 5,187 | 6,285 | 2,885 | 5,679 |

Sports in Congress
Mentions of Soccer, Basketball, Football, Golf, and Baseball in Westlaw’s “Congressional Record” Database, 1900–2008

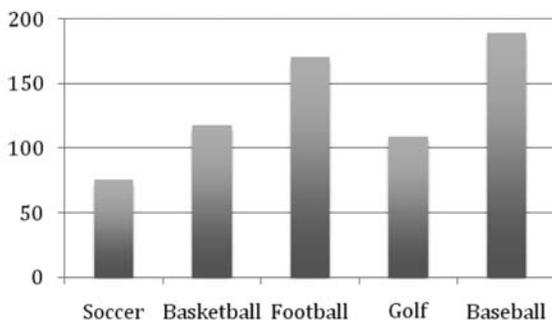


On the other hand, in the *Weekly Compilation of Presidential Documents* (“the official publication of presidential statements, messages, remarks, and other materials released by the White House Press Secretary”),¹⁰⁷ baseball is the clear leader since 1990, exceeding football by 18 mentions, or almost 11 percent (albeit on a much smaller base).¹⁰⁸

Table 3. Sports in the White House
Mentions, by Decade, of Soccer, Basketball, Football, Golf, and Baseball in Westlaw’s Database “All Federal & State Cases,” 1900–2008

| Soccer | Basketball | Football | Golf | Baseball |
|--------|------------|----------|------|----------|
| 76 | 118 | 171 | 109 | 189 |

Chart 3. Sports in the White House
Mentions, by Decade, of Soccer, Basketball, Football, Golf, and Baseball in Westlaw’s Database “All Federal & State Cases,” 1900–2008



Approaching the same sports (except soccer, which is not a good fit in this context) in the same databases from a slightly different angle yields similar results. The angle is the use of the language of sport. A few quick looks in that direction suggest that, while in general baseball comes up in more cases than do other sports, judges¹⁰⁹ writing opinions are more likely to use the language of golf or basketball while legislators¹¹⁰ and presidents¹¹¹ are more inclined to speak the baseball lingo (again, the measures are rough, but so are the points to be made):

Table 4. Sports Lingo in the Courts
Mentions of Home Run, Touchdown, Slam Dunk, and Hole in One in Westlaw’s Database “All Federal & State Cases,” 1990–2008

| Home Run | Touchdown | Slam Dunk | Hole in One |
|----------|-----------|-----------|-------------|
| 318 | 146 | 341 | 434 |

Chart 4. Sports Lingo in the Courts
Mentions of Home Run, Touchdown, Slam Dunk, and Hole in One in Westlaw’s Database “All Federal & State Cases,” 1990–2008

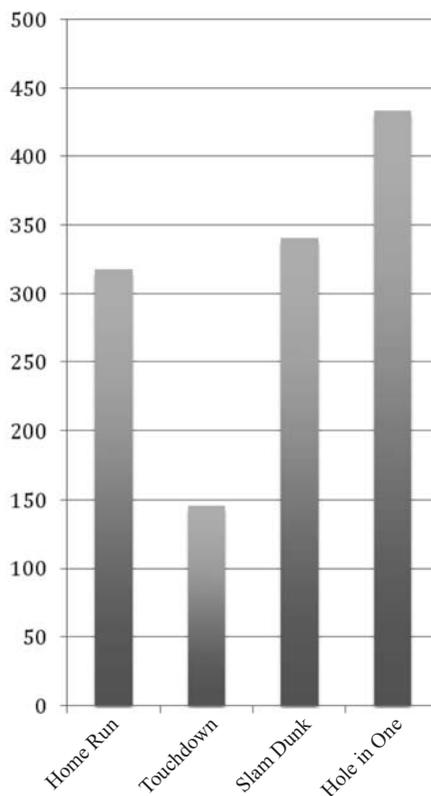


Table 5. Sports Lingo in Congress
Mentions of Home Run, Touchdown, Slam Dunk, and Hole in One in Westlaw’s “Congressional Record” Database, 1990–2008

| Home Run | Touchdown | Slam Dunk | Hole in One |
|----------|-----------|-----------|-------------|
| 611 | 417 | 188 | 55 |

Chart 5. Sports Lingo in Congress
Mentions of Home Run, Touchdown, Slam Dunk, and Hole in One in Westlaw’s “Congressional Record” Database, 1990–2008

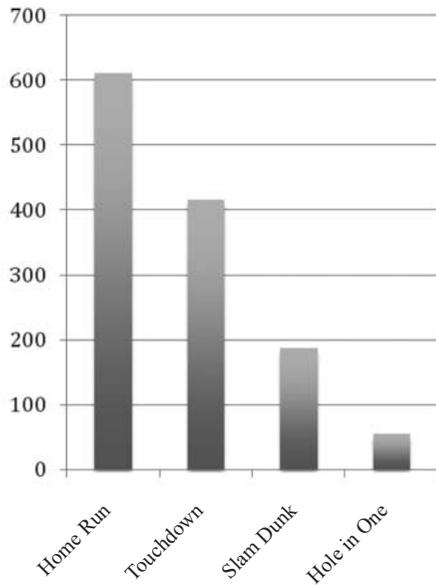
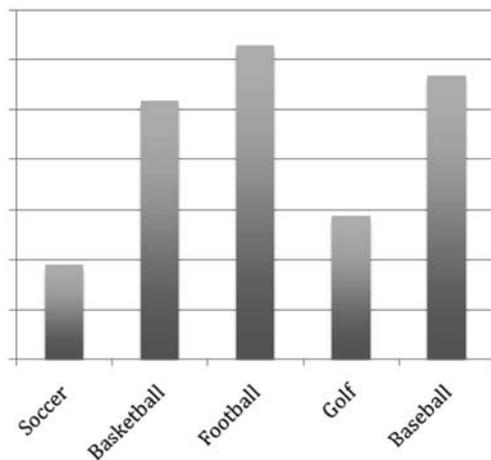


Table 6. Sports Lingo in the White House
Mentions of Home Run, Touchdown, Slam Dunk, and Hole in One in Westlaw’s Database “Weekly Compilation of Presidential Documents,” 1990–2008

| Home Run | Touchdown | Slam Dunk | Hole in One |
|----------|-----------|-----------|-------------|
| 13 | 8 | 0 | 1 |

Chart 6. Sports Lingo in the White House
Mentions of Home Run, Touchdown, Slam Dunk, and Hole in One in Westlaw’s Database “Weekly Compilation of Presidential Documents,” 1990–2008



Baseball does, however, appear to enjoy overwhelming priority when the subject is failure. Perhaps because there is no moment in other sports as distinctively and individually disappointing as strike three (if you’re the batter) in baseball, “three strikes” appeared in more than 10,000 judicial opinions from 1990 through 2008.¹¹² Or perhaps this is because bad things in law tend to occur in threes rather than in, for example, twos (two balls in play and you’re out in golf),¹¹³ fours (four downs and you’re out in football), or sixes (six fouls and you’re out in basketball).¹¹⁴ On the other hand, there are the three-second rules in basketball.¹¹⁵ In any event, many of the “three strikes” mentions in judicial opinions can be attributed to “three strikes” laws designed to penalize repeat criminal offenders, but that merely points to the possibility that legislators, like judges, are comfortable with baseball’s definition of failure. And a quick look at the language of federal legislators lends some credence to that supposition: “Three strikes” appeared 374 times in the Congressional Record from 1990 through 2008.¹¹⁶ On the other hand, “three strikes” appears nowhere in the Weekly Compilation of Presidential Documents for the same period.¹¹⁷

None of this, of course, is direct proof of a deep relationship between baseball and the law. But it does appear that there is more of baseball in the law than there is of any other major sport. So, if any sport is entwined deeply with the law, it is in all likelihood baseball.

By the Anecdotes. In the introduction to their book *Baseball and the American Legal Mind*, Spencer Waller, Neil Cohen, and Paul Finkelman rightly observe that “[g]iven the extensive parallels between legal culture and baseball culture, the breadth and depth of the baseball/law nexus is only to be expected.”¹¹⁸ And there are probably as many intersections as there are parallels. The law-to-baseball and baseball-to-law crossover stories sketched below are a small subset of the varied intersectional episodes that fill the history of baseball and the law. They are grouped here, old with new, to make the point that, while each of these intimacies may stand alone, each is also an element of a longstanding and varied relationship.

• Media Darlings

Newspapers have long been fascinated by quirky connections between baseball and the law and have played their own part in creating and highlighting them. One of the most superficially obvious—at least since 1869, when Congress increased the number of

DAVIES: The Sport of Courts

Left to right: Justices Joseph P. Bradley (shortstop), Samuel Blatchford (first base), Samuel F. Miller (second base), and John Marshall Harlan (center field), Chief Justice Melville W. Fuller (pitcher), and Justices Stephen J. Field (right field), Lucius Q. C. Lamar (catcher), Horace Gray (left field), and David J. Brewer (third base). In 1869, Congress increased the number of Supreme Court justices from eight to nine, giving rise to portrayals of “the great judiciary baseball team.” In 1979, Robert M. Cover in “Your Law–Baseball Quiz” used comparisons with ballplayers to characterize the work of individual justices—a project continued by Jerry Goldman at his website Oyez Baseball.



NEW YORK MORNING JOURNAL, 5 FEBRUARY 1890, 1

justices on the Supreme Court from eight to nine¹¹⁹—has been the fact that a complete Supreme Court and a complete baseball team each has nine members. Opportunities to portray the justices as “members of the great judiciary baseball team”¹²⁰ have been difficult to resist. On February 5, 1890, for example, the *New York Morning Journal* portrayed the Supreme Court (which had celebrated its centennial the night before) as a dancing baseball team under the headline “The United States ‘Nine’” and assigned each Court member a position.

The most famous and durable modern manifestation of this impulse appeared in the *New York Times* on April 5, 1979—Robert M. Cover’s “Your Law–Baseball Quiz,” in which he used comparisons with individual ballplayers to characterize the work of individual justices.¹²¹ Today, Cover’s project is being ably carried on by Jerry Goldman at his website Oyez Baseball.¹²²

On an equally obvious but more substantial note, the National Commission, created as part of the 1903 peace agreement between the National League and the American League, was—or was supposed to be—the final arbiter of inter-team and interleague disputes.¹²³ Sort of like a court of last resort.¹²⁴ Therefore, it should come as no surprise that in newspapers of the time

it was “frequently referred to as the supreme court of baseball”¹²⁵ or “the ‘supreme court’ of Organized Baseball.”¹²⁶

• Role Reversals

From time to time professionals in the field of baseball or the law will do more than merely express an interest in the other field; instead they will go to work in it. When these adventurers are successful in their first chosen field and then proceed to succeed in the other as well, the crossover connection often receives public notice.

Among the prominent examples from the early twentieth century are John Tener and Kenesaw Mountain Landis.

Tener was a good pitcher. In 1885, he played for the Haverhill (Massachusetts) team in the New England League and then very briefly for the Baltimore Orioles of the American Association. Early in 1888 he signed with the Chicago White Stockings (now the Cubs) and compiled a 22–20 record over the next two seasons. His last year as a player was 1890, with the Pittsburgh Burghers of the short-lived Players’ League. Tener settled in Pittsburgh and, after a successful career in business, launched an even more successful career in politics.¹²⁷ In 1908, he won elec-



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

Jim Bunning slides into home plate. In 17 major-league seasons, he won 224 games and recorded 2,855 strikeouts. Since retiring from baseball, he has spent most of his life as a lawmaker, serving in the Kentucky state senate (1979–83) and the U.S. House of Representatives (1987–99). A Republican, he is currently the junior senator from Kentucky, having been first elected to the U.S. Senate in 1998. Bunning was inducted into the Baseball Hall of Fame in 1996.

tion to the U.S. House of Representatives, where the newspapers promptly picked up on his baseball past. That the founding president of the New England League, William H. Moody,¹²⁸ was by then another baseball-to-law crossover phenomenon made the story all the more appealing. As the *Philadelphia Inquirer* reported (with a few inaccuracies) on December 12, 1908:

One touch of baseball makes the whole world kin. Representative-elect John K. Tener, of the Twenty-fourth Pennsylvania district, was a noted baseball player in his days, winning a national reputation as a pitcher under "Pop" Anson on the old Chicago White Sox.

Today he visited Washington for the first time since playing here with the White Sox in 1889, and, of course, strolled up to the Capitol to look over the Congressional diamond, where he will perform when the Sixty-first Congress assembles next year. He fell into the obliging hands of John Williams, file clerk of the House, who introduced

him to Uncle Joe Cannon, Vice President-elect Sherman, Representative John Dalzell and other stars of the House, who extended the right hand of fellowship to the six-foot-four member-elect. Incidentally Mr. Tener happened to mention that in the days of his baseball glory he once spent some time in coaching a famous amateur team at Haverhill, Mass., of which one William H. Moody, now a justice of the Supreme Court, was an enthusiastic and valued member. He suggested that he would like to renew his acquaintance with Moody, and asked John Williams if he thought it would be possible to see the justice.

Williams escorted Mr. Tener over to the Supreme Court chamber, where they were informed it would be impossible to see Justice Moody just then, as the justices were about to return to the bench after their luncheon intermission. So Mr. Tener and his companion stood in the corridor to watch the procession of justices pass between the ropes which guard them from interference by the

DAVIES: The Sport of Courts

public as they go from the ante room to the court chamber. [The Court sat in a room in the Capitol until its own building was completed in 1935.]¹²⁹ As Justice Moody went by he caught sight of the famous coach of his old Haverhill team and instantly recognized him, although he had not seen him in years. The justice broke ranks, extended his hand to Mr. Tener, greeted him cordially and exchanged a few words of reminiscences about the old baseball days, while the court was waiting within.¹³⁰

Tener served less than one term in Congress, resigning on January 16, 1911, to take office as the newly elected governor of Pennsylvania. Tener was unusual even among prominent baseball-law crossovers, as he managed to keep one foot in each field. For example, while serving in Congress he played in the first-ever Democrats-versus-Republicans congressional baseball game, in 1909.¹³¹ Then, while serving as governor, Tener accepted the position of president of the National League in 1913, held both offices until the end of his term as governor in 1915, and remained at the head of the National League until 1918.¹³²

Landis requires no elaborate explanation. He served as a judge on the United States District Court for the Northern District of Illinois from 1905 to 1922 and as the first commissioner of baseball from 1921 to 1944.¹³³ Unlike Tener, he did not manage to keep one foot in each field, at least not for long,¹³⁴ but to say that his dual careers in law and baseball were subjects of enduring public interest would be an understatement.¹³⁵

Perhaps the most fitting modern equivalents of Tener and Landis are Jim Bunning and George Mitchell.

Like Tener, Bunning was a professional pitcher in his youth and a lawmaker in later years. As a player, he was Tener's superior. Bunning spent 17 years in the major leagues with the Detroit Tigers (1955–63), Philadelphia Phillies (1964–67 and 1970–71), Pittsburgh Pirates (1968–69), and Los Angeles Dodgers (1969) and was a seven-time All-Star. He was a crossover extraordinaire within baseball, winning more than 100 games, recording more than 1,000 strikeouts, and throwing no-hitters (including a perfect game against the New York Mets on June 21, 1964) in both leagues. He was elected to the Hall of Fame in 1996.¹³⁶ Since leaving baseball, Bunning has spent most of his life as a lawmaker. He served on the city council of Fort Thomas, Kentucky, from 1977 to 1979, in the Kentucky state senate from 1979 to 1983, and in the U.S. House of Representatives from 1987 to 1999.

In 1998 he was elected to the U.S. Senate from Kentucky, and he was reelected in 2004. He has announced that he will not seek another term, which means he will leave office on January 3, 2011.¹³⁷

There are striking parallels between Mitchell's and Landis's law-to-baseball crossover careers. Both graduated from prestigious law schools—Landis from Northwestern (it was then called Union Law School), Mitchell from Georgetown—and spent many years in private practice. Both served as federal district judges—Landis in Illinois, Mitchell in Maine in 1979–80.¹³⁸ Both were enlisted by Major League Baseball to cross over during reputational crises in the sport—Landis in response to the corruption highlighted by the Black Sox scandal, Mitchell in response to the steroids scandal.¹³⁹ Of course, there are significant differences as well. Although Mitchell served briefly as a federal judge, he has spent the bulk of his public-service career as a lawmaker, representing Maine in the U.S. Senate from 1980 to 1995. In addition, like Tener, Mitchell has moved back and forth easily between baseball and the law—for example, he remained a member of the law firm DLA Piper US LLP while preparing the Mitchell Report and returned to government work from time to time as well.¹⁴⁰ And, in fairness to Mitchell, it must be said that he has a reputation for civility.¹⁴¹

There are signs that this pattern might continue with another generation of bright young stars of both baseball and the law. On the baseball-to-law vector, there is, for example, Mark Mosier, now practicing with the prestigious Covering & Burling firm in Washington, D.C. He spent three years playing in the San Francisco Giants organization before graduating with honors from the University of Chicago Law School and clerking in 2005 and 2006 for Chief Justice Roberts and his predecessor, William H. Rehnquist.¹⁴² And in the law-to-baseball direction, there is, for example, Michael Weiner, Harvard Law School class of 1988, former clerk to U.S. District Judge H. Lee Sarokin, and the executive director of the Major League Baseball Players Association.¹⁴³

• Best-Sellers

The tendency of many legal writers to occasionally incorporate baseball into their work requires no additional proofs: judges do it, scholars do it, presidents and legislators do it.¹⁴⁴ There is something of a reciprocal tendency among baseball writers.

Take, for instance, *Baseball Joe at Yale* (1913), of the popular “Baseball Joe” series of sports novels for young people by the pseudonymous Lester Chadwick.

The Baseball Research Journal, Fall 2009

John Matson, Baseball Joe's father, has kind words for lawyers (and others) and even recognizes the possibility and possible value of crossovers. Here is the scene in the kitchen of the Matson family home, as Mr. and Mrs. Matson contemplate Baseball Joe's impending departure to attend college at Yale:

"I do wish he would get that idea of being a professional baseball player out of his mind," went on Mrs. Matson, and her tone was a trifle worried. "It is no career to choose for a young man." "No, I suppose not," said her husband slowly. "And yet there are many good men in professional baseball—some rich ones too, I guess," he added with a shrewd laugh.

"As if money counted, John!"

"Well, it does in a way. We are all working for it, one way or another, and if a man can earn it throwing a ball to another man, I don't see why that isn't as decent and honorable as digging sewers, making machinery, preaching, doctoring, being a lawyer or a banker. It all helps to make the world go round."

"Oh, John! I believe you're as bad as Joe!"

"No, Ellen. Though I do like a good game of baseball. I don't think it's the only thing there is, however, as Joe seems to, of late. I don't altogether uphold him in his wish to be a professional, but, at the same time, there's nothing like getting into the niche in life that you're just fitted for.

"There are too many square pegs in round holes now. Many a poor preacher would be a first-class farmer, and lots of struggling lawyers or doctors would do a sight better in a shop, or, maybe even on the ball field. Those sentiments aren't at all original with me," he added modestly; "but they are true just the same. I'd like to see Joe do what he likes best, for then I know he'd do that better than anything else in the world."

"Oh, John! surely you wouldn't want to see him a professional ball player?"

"Well, I don't know. There are lots worse positions in life."

"But I'm glad he's going to Yale!" exclaimed Mrs. Matson, as the little family conference came to an end.¹⁴⁵

More recently, the authors of some popular and highly regarded baseball books have shown a marked interest in (and some sophistication about) the law, especially the Supreme Court. Jim Bouton and Bill James, plus Supreme Court Justice Harry A. Blackmun, present an interesting sequence.

First, Bouton: In his entry for August 27–28, 1969, in *Ball Four: My Life and Hard Times Throwing the Knuckleball in the Big Leagues*, Bouton writes, "We lost a 2–1 heartbreaker in extra innings. It was tough to take. On the other hand, President Nixon today nominated Judge Haynsworth for the Supreme Court. I think that will turn out to be a more famous defeat."¹⁴⁶ Bouton was reporting on events that occurred on August 28, when the Houston Astros lost to the St. Louis Cardinals,¹⁴⁷ and on August 18, when President Richard Nixon announced the nomination of Judge Clement Haynsworth.¹⁴⁸ Bouton was correct. On November 21, 1969, Haynsworth became the first Supreme Court nominee since 1930 to be denied confirmation by the U.S. Senate.¹⁴⁹

Second, James: One theme of his *The Politics of Glory: How Baseball's Hall of Fame Really Works* is the Hall of Fame candidacy of New York Yankees shortstop Phil Rizzuto. As James explains: "A key argument made by Rizzuto's supporters, and occasionally by Rizzuto himself, is that shortstop is a *defensive* position first, and that therefore we should be willing to put shortstops who weren't outstanding hitters [such as Rizzuto] into the Hall of Fame." James is skeptical. He concedes that "[t]here is obviously some truth" to the argument that the relative importance of defensive and offensive performance tends to be weighted unusually heavily toward defense for shortstops, but he cautions that

[t]here is also a danger here, which is that if it isn't carefully watched, this develops into the common-to-the-type argument—that it doesn't matter what a shortstop hits, because many shortstops don't hit. That argument implies that the Hall of Fame should reflect the shortcomings of players in the same proportion as it does their strengths, which is rather like Senator Roman Hruska's defense of G. Harold Carswell, a Nixon nominee for the Supreme Court. Hruska supported Carswell because "mediocre people need representation on the Supreme Court, too." Mediocre ballplayers do not need representation in the Hall of Fame.¹⁵⁰

DAVIES: The Sport of Courts

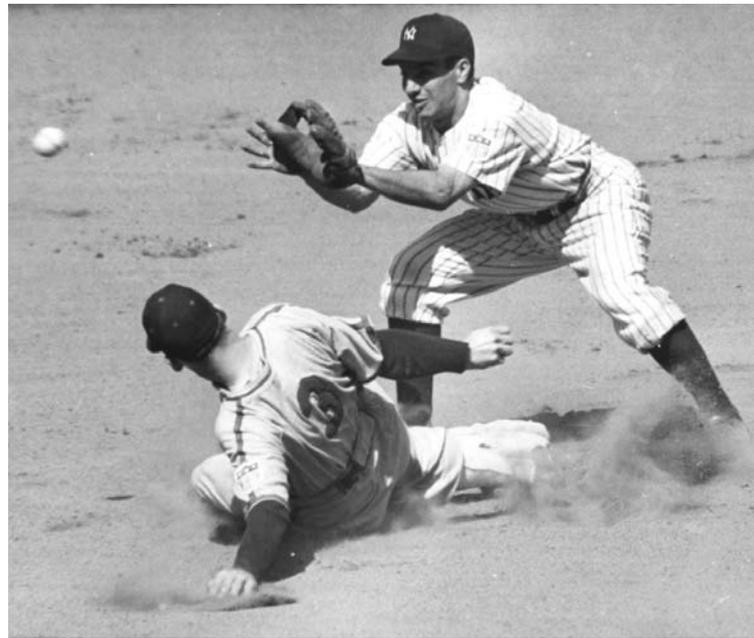
Except for misspelling Carswell's middle name (it was Harrold¹⁵¹), and slightly misquoting Hruska (who said, "Even if he is mediocre there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation, aren't they, and a little chance?"¹⁵²), James's use of the Carswell/Hruska analogy rings true. By near-consensus among knowledgeable observers in 1970 (when he was nominated to the Supreme Court), and ever since, Carswell was a mediocre lawyer who did not belong there. His nomination was regarded by some as an "act of vengeance" pursued by Nixon in angry response to the senatorial rejection of Judge Haynsworth that Bouton had predicted. The Senate agreed with Bill James about representation of the mediocre: Carswell was also rejected.¹⁵³ (Rizzuto, however, was elected to the Hall of Fame in 1994.)¹⁵⁴

Third, Blackmun: After the failed nominations of Haynsworth and Carswell, Nixon nominated an indisputably qualified and confirmable character, Judge Harry A. Blackmun. Blackmun was promptly and overwhelmingly confirmed, and served on the Supreme Court from 1970 to 1994. He became something of a baseball literary figure in his own right, with his opinion for the Court in *Flood v. Kuhn*.¹⁵⁵

There are plenty of others. Lawrence Ritter's *The Glory of Their Times*, for example, is peppered with references to the law and lawyers—even the Harvard Law School—by the early greats he interviewed.¹⁵⁶ The prize for the most colorful law story in baseball literature, however, surely goes to Leo Durocher. It is too long and convoluted to summarize. Suffice it to say that in the course of the chapter titled "A Hamfat Politician Named Happy" in his book *Nice Guys Finish Last*, Durocher claims that Supreme Court Justice Frank Murphy objected to Durocher's 1947 suspension from Major League Baseball on the ground that it violated several provisions of the Bill of Rights.¹⁵⁷

• Judicial Appointments

Baseball and the language of the game are not uncommon in the work-product of judges, legislators, presidents, and bureaucrats,¹⁵⁸ but they rarely show up in the business of making judges—the announcements, hearings, and debates that make up the judicial-appointment process. Rarely, but not never.



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

Yankees shortstop Phil Rizzuto covers the bag at second. He was elected to the Hall of Fame primarily on the strength of his defense. Bill James, cautioning against "the common-to-type argument—that it doesn't matter what a shortstop hits, because many shortstops don't hit," compared him to G. Harrold Carswell, who had a solid reputation for mediocrity, which some actually adduced to defend his nomination by President Nixon to the Supreme Court.

Which suggests, perhaps, that baseball has at least a small part to play in every aspect of the law.

Theodore Roosevelt was president of the United States from 1901 to 1909, and during those years he had the opportunity to fill three openings on the Supreme Court. He made his first and most famous appointment, Oliver Wendell Holmes, in 1902. Holmes was a great disappointment to Roosevelt, primarily because, once he was on the Court, Holmes failed to support the Roosevelt administration's vigorous enforcement of federal antitrust laws, especially in the famous *Northern Securities* case in 1904.¹⁵⁹ Roosevelt is often quoted as saying of Holmes, "I could carve out of a banana a Judge with more backbone than that!"¹⁶⁰ In 1903, Roosevelt used a second opening on the Court to appoint William R. Day, a longtime friend and supporter of William McKinley, the president whose assassination had opened the presidency to Roosevelt. Day was on the side of Roosevelt's angels in the *Northern Securities* case. He soon frustrated Roosevelt, however, by failing to support all of Roosevelt's assertions of executive power and progressive social legislation.¹⁶¹ Roosevelt expressed his frustration with Holmes and Day when announcing his third Supreme Court appointment (William Moody) in 1906: "I have been to bat three times on the Supreme Court justice-ship business, and have struck out twice."¹⁶² This

might have been not only a slap at his first two appointments but also a salute of sorts to Moody's longstanding interest and involvement in baseball.¹⁶³ Ironically, Moody would serve only briefly on the Court (until 1910), while Roosevelt's two strikeouts would serve until 1922 (Day) and 1932 (Holmes).¹⁶⁴

A century later, it was the nominee who turned to baseball in the judicial-appointment process. In 2005, Judge John G. Roberts Jr. was nominated by President George W. Bush to be chief justice of the United States. In his testimony during a confirmation hearing before the Senate Committee on the Judiciary, Roberts said:

While many advocates on the left and right would like a Court that promotes their agenda, I do not want that and neither do the American people. What we must have, what our legal system demands, is a fair and unbiased umpire, one who calls the game according to the existing rules and does so competently and honestly every day. This is the American ideal of law. Ideals are important because they form the goals to which we all strive. We must never abandon our ideal of unbiased judges, judges who rule fairly without regard to politics.¹⁶⁵

Roberts's invocation of the umpire excited several of the senators considering his nomination and drew the attention of the news media as well. Senators and commentators hostile to Roberts treated his comment as an equation¹⁶⁶ (judging is just like umpiring), while those whose sympathies were with him treated it as an analogy¹⁶⁷ (there are similarities between the role of judge and the role of umpire).¹⁶⁸ That kind of treatment has become part of the package for an individual nominated for an important job in the federal government in the late twentieth or early twenty-first century,¹⁶⁹ just as it is used as part of the package for an individual umpiring a baseball game in the late nineteenth or early twentieth century.¹⁷⁰

Maybe there really is no end to the connections between baseball and the law, or to the lessons of each for the other.

But it is important to keep things in perspective. That baseball and the law are close should not overshadow that, generally speaking, the most important events in baseball are the ones that occur on the field, not in court, and that most important events in the law have had little or nothing to do with baseball. For example, the race barrier in Major League Baseball was first broken when Jackie Robinson played the game, not when he first signed a major-league contract with

Branch Rickey and the Dodgers.¹⁷¹ And Robinson did it without help from the courts. He played in his first major-league game on April 15, 1947, seven years and one month before the Supreme Court in *Brown v. Board of Education* declared racially segregated schools unconstitutional.¹⁷² And yet, when *Brown* was decided in 1954, the Court did not turn to the precedent of Jackie Robinson and the Dodgers; rather, it focused on its own earlier decisions.¹⁷³ Likewise, Curt Flood's career as a player did not end in 1972, when the Supreme Court upheld the power of his employer to enforce against him the reserve clause in his employment contract.¹⁷⁴ It ended in 1971, with the Washington Senators, because (depending on how you look at it) either he played poorly or he did not want to play.¹⁷⁵ And this summer Sonia Sotomayor was appointed to the Supreme Court neither especially because of nor especially despite her opinions in such cases as *Major League Baseball Properties, Inc. v. Salvino, Inc.*¹⁷⁶ and *Silverman v. Major League Baseball Player Relations Committee, Inc.*¹⁷⁷

It is also suggestive that in chronologies in leading baseball reference books, important "baseball-and-the-law" events tend to show up in the years when they manifested themselves on the field rather than in the courtroom. So, for example, in Thorn, Birnbaum, and Deane's *Total Baseball*, the *Federal Baseball* case appears in 1915 (when the Federal League stopped playing games), rather than 1922 (when the case was decided); the Black Sox scandal shows up in 1919 (when the games were played, and allegedly thrown) rather than the early 1920s (when legal proceedings were underway); and the *Flood v. Kuhn* case is reported in 1970 (when Curt Flood sat out the season in protest against his trade by the Cardinals to the Phillies) rather than in 1972 (when the case was decided).¹⁷⁸ Conversely, in the index to volume 259 of the *United States Reports* (the official reports of the decisions of the Supreme Court of the United States), the Court's decision in the *Federal Baseball* case is listed under "Anti-trust Acts" and "Interstate Commerce," not "Baseball," and, in volume 407, the Court's decision in *Flood v. Kuhn* is listed under "Antitrust Acts," not "Baseball."¹⁷⁹

Baseball and the law: forever together, but not one and the same.¹⁸⁰ ■

Notes

1. See generally, e.g., Spencer Weber Waller, Neil B. Cohen, and Paul Finkelman, eds., *Baseball and the American Legal Mind* (Garland 1995); Roger I. Abrams, *Legal Bases: Baseball and the Law* (Temple Univ. Press 1998); Brad Snyder, *A Well-Paid Slave: Curt Flood's Fight for Free Agency in Professional Sports* (Viking 2006); see also Amy Beckham Osborne, *Baseball and the Law: A Selected Annotated Bibliography, 1990–2004*, 97 *Law Library J.* 335 (2005).

DAVIES: The Sport of Courts

2. John Thorn, Text of 1791 Pittsfield Ordinance, SABR-L Archives, www.sabr.org (posted 13 May 2004).
3. And leader of several law schools over the years, serving as dean of the Rutgers School of Law–Newark, Nova University Shepard Broad Law Center, and Northeastern University School of Law. He is now the Richardson Professor of Law at Northeastern. See www.northeastern.edu/law/academics/faculty/directory/abrams.html (accessed 10 October 2009).
4. Abrams, *Legal Bases*, 4.
5. Restatement of the Law Second, Contracts § 1 (American Law Institute 1981).
6. See, e.g., *ESPN, Inc. v. Office of the Commissioner of Baseball*, 76 F. Supp. 2d 383 (S.D.N.Y. 1999); *Silverman v. Major League Baseball Player Relations Committee, Inc.*, 67 F.3d 1054 (2d Cir. 1995); *Metropolitan Exhibition Co. v. Ewing*, 42 F. 198 (C.C.N.Y. 1890).
7. See, e.g., *J. Caldarera & Co. v. Louisiana Stadium & Exposition District*, 750 So.2d 284 (La. App. 1999); *Scheibeck v. Van Derbeck*, 80 N.W. 880 (Mich. 1899); *Philadelphia Ball Club v. City of Philadelphia*, 44 A. 265 (Pa. 1899).
8. See, e.g., *Norwell v. Cincinnati*, 729 N.E.2d 1223 (Ohio Ct. App. 1999); “Two Are Taken Into Custody for Offering Pasteboards at Excessive Prices,” *New York Times*, 19 April, 1923, 15; *Town of Winnfield v. Grigsby*, 53 So. 53 (La. 1910).
9. See, e.g., *In re Anaheim Angels Baseball Club, Inc.*, 993 S.W.2d 875 (Tex. App. 1999); *Columbus Base Ball Club v. Reiley*, 11 Ohio Dec. Reprint 272 (Ohio Ct. Common Pleas 1891).
10. See, e.g., Curt Flood Act of 1998, Pub.L. 105–297, 27 October 1998, 112 Stat. 2824; “One of Three Bills Introduced Would Increase Tax on Baseball,” *Washington Post*, 6 August 1909, 4; see also, e.g., “Daylight Saving Measure May Aid Baseball Clubs,” *Washington Post*, 18 January 1918, 8; “Baseball Ties Up Lawmaking: Senators Nearly All Fans; Representatives Like Game,” *Chicago Daily Tribune*, 25 April 1910, 1.
11. See, e.g., Nev. Rev. Stat. Ann. § 244A.830 (2009); “Sunday Baseball Killed: Indianapolis Legislature Defeats Second Attempt to Pass Law Permitting National Game on Sabbath,” *Chicago Daily Tribune*, 17 February 1903; “Georgia’s Tax on Baseball,” *New York Times*, 10 October 1885, 3.
12. See, e.g., *Aubrey v. City of Cincinnati*, 815 F. Supp. 1100 (S.D. Ohio 1993); *Owens v. Town of Atkins*, 259 S.W. 396 (Ark. 1924); *New Orleans Baseball & Amusement Co. v. City of New Orleans*, 42 So. 784 (La. 1907); *City of La Crosse v. Cameron*, 80 F. 264 (7th Cir. 1897).
13. See, e.g., Statement on the Baseball Strike, Public Papers of the Presidents, 31 Weekly Comp. Pres. Doc. 124, 26 January 1995; “Affects 2,400 in Draft: Work or Fight Order Starts Hunt for Jobs by District Men,” *Washington Post*, 2 July 1918, 2 (“Wilson to Classify Ballplayers”); see also, e.g., “President Helps Baseball Fund,” *New York Times*, 23 May 1917, 10; “His Message Ready: Wilson Gives Most Attention to Tariff Revision,” *Washington Post*, 28 March 1913, 5; “Hiding from the Crowd,” *New York Times*, 16 April 1889, 1; “Baseball Indorsed: President Cleveland an Admirer of the Manly Sport,” *Atlanta Constitution*, 3 April 1885, 5.
14. See, e.g., “Governor Involved in Sox Talks,” *San Francisco Chronicle*, 3 May 1988, D1; “Bad News for the Giants,” *New York Times*, 24 April 1889, 3; “Gov. Hill As An Athlete,” *New York Times*, 20 October 1888, 3; see also, e.g., Office of the Governor of Arizona, Executive Order No. 2005-07 (3 June 2005) (establishing Arizona Baseball and Softball Commission).
15. See, e.g., *Pittsburgh Baseball, Inc. v. Stadium Authority of the City of Pittsburgh*, 630 A.2d 505 (Pa. Commw. Ct. 1993); *Moore v. Reed*, 559 A.2d 602 (Pa. Commw. Ct. 1989); *Scott v. Smith*, 28 S.E. 64 (N.C. 1897).
16. See, e.g., Bill James, *The Politics of Glory: How Baseball’s Hall of Fame Really Works*, 297 (Macmillan 1994); Baseball Tax Settled, *New York Times*, 22 January, 1918, 13; “Baseball Income Taxable,” *New York Times*, 6 September 1919, 10; *In re Lyman*, 40 A.D. 46 (N.Y. App. Div. 1899); Frederick W. Thayer, Improvement in Masks, U.S. Patent No. US 200358 (12 February, 1878).
17. Search for “baseball” in Westlaw’s Allcases database of judicial opinions for October 2009; see also table 1 on page 66.
18. *Popov v. Hayashi*, 2002 WL 31833731 (Cal. Super. Ct. 2002); see also Mike Jensen, “Throwing It Back: Howard Homer Returned,” *Philadelphia Inquirer*, 8 October 2009, E4.
19. *C.B.C. Distribution and Marketing, Inc. v. Major League Baseball Advanced Media, L.P.*, 505 F.3d 818, 824 (8th Cir. 2007), cert. denied, *Major League Baseball Advanced Media v. C.B.C. Distribution and Marketing, Inc.*, 128 S. Ct. 2872 (2008).
20. See, e.g., *Rose v. Giamatti*, 721 F. Supp. 924 (S.D. Ohio 1989); *Rose v. Giamatti*, 1989 WL 111447 (Ohio Ct. Common Pleas 1989).
21. Cf. Basic Agreement Between the 30 Major League Clubs and the MLBPA, art. XI (20 December 2006), <http://mlb.mlb.com/pa/info/cba.jsp> (accessed 10 October 2009).
22. *Flood v. Kuhn*, 407 U.S. 258 (1972).
23. Major League Baseball Players Association and the Twenty-Six Major League Baseball Clubs, Grievance No. 88-1 (18 July 1990) (Nicolau, chairman); Major League Baseball Players Association and the 26 Major League Clubs, Grievance No. 87-3 (31 August 1988) (Nicolau, chairman); Major League Baseball Players Association and the Twenty-Six Major League Baseball Clubs, Panel Decision No. 76, Grievance No. 86-2 (21 September 1987) (Roberts, chairman).
24. See, e.g., S. 1114, the Clean Sports Act of 2005, and S. 1334, the Professional Sports Integrity and Accountability Act, Hearing before the Committee on Commerce, Science, and Transportation, 28 September 2005, S. Hrg. 109-525 (2006).
25. See, e.g., House Committee on Oversight and Government Reform, Weighing the Committee Record: A Balanced Review of the Evidence Regarding Performance Enhancing Drugs in Baseball (25 March 2008).
26. *U.S. v. Comprehensive Drug Testing, Inc.*, 579 F.3d 989 (9th Cir. 2009) (en banc).
27. *United States v. Bonds*, 580 F. Supp. 2d 925 (N.D. Cal. 2008).
28. *Rosenfeld v. Hudson Valley Stadium Corp.*, 885 N.Y.S.2d 338 (N.Y. App. Div. 2009); see also, e.g., *Elie v. City of New York*, 24 Misc. 3d 1243(A), 2009 WL 2767116 (N.Y. Sup. Ct. 2009) (table); *Pakett v. The Phillies, L.P.*, 871 A.2d 304 (Pa. Commonw. Ct. 2005) (judgment against spectator temporarily blinded by foul ball affirmed).
29. See Reply Brief of Appellants, *Braman v. Miami-Dade County*, Florida, No. 3D08-3245, District Court of Appeal of Florida, Third District, 2009 WL 2898769 (24 July 2009) (Appeal from a Final Order from the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida); Appellants’ Initial Brief, *Solares v. City of Miami*, No. 3D09-1760, District Court of Appeal of Florida, Third District, 2009 WL 2898734 (7 June 2009) (Appeal of Non-Final Order Denying a Temporary Injunction from the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida); see also Michael Vasquez, “Miami Commission OKs Tweaks in Marlins Stadium Financing,” *Miami Herald*, 18 June 2009.
30. *Monument Realty LLC v. Washington Metropolitan Area Transit Authority*, 540 F.Supp.2d 66 (D.D.C. 2008).
31. *In re Havens Steel Co.*, 2007 WL 2998432 (Bankr. W.D. Mo. 2007).
32. See, e.g., *State v. Curley*, 2009 WL 1819516 (Ariz. Ct. App. 2009) (“The indictment alleged that Appellant had killed the victim by assaulting him with a baseball bat.”); *United States v. Davis*, 2009 WL 2950229 (D. Md. 2009) (“there was a ‘hit’ between the DNA found on the baseball cap recovered at the scene and the DNA of the Defendant”).
33. *Major League Players Association v. Garvey*, 532 U.S. 504 (2001).
34. *United States v. Cleveland Indians Co.*, 532 U.S. 200 (2001).
35. Coast Guard, DHS, Safety Zone; Allegheny River Mile Marker 0.4 to Mile Marker 0.6, Pittsburgh, PA, 74 Fed. Reg. 20586-01 (5 May 2009).
36. *Steele v. Turner Broadcasting System, Inc.*, 2009 WL 2570662 (D. Mass. 2009).
37. *Jacob Maxwell, Inc. v. Veck*, 110 F.3d 749 (11th Cir. 1997); see also www.miraclebaseball.com (accessed 10 October 2009).
38. Although reasonable minds can differ on their utility. Compare, e.g., *Commonwealth v. Green*, 907 N.E.2d 266 (table), 2009 WL 1586211 (Mass. App. Ct. 2009), with Chad M. Oldfather, “The Hidden Ball: A Substantive Critique of Baseball Metaphors in Judicial Opinions,” 27 *Conn. L. Rev.* 17 (1994); see also Mark A. Graber, “Law and Sports Officiating: A Misunderstood and Justly Neglected Relationship,” 16 *Const. Commentaries* 293 (1999).
39. *Ricci v. DeStefano*, 129 S. Ct. 2658, 2704 n.12 (2009) (Ginsburg, J., dissenting).

The Baseball Research Journal, Fall 2009

40. *Township of Tinicum v. U.S. Department of Transportation*, 582 F.3d 482, 488 (3rd Cir. 2009).
41. *Hendricks v. Geithner*, 568 F.3d 1008 (DC. Cir. 2009).
42. *Insurance Co. of the State of Pennsylvania v. Pan American Energy LLC*, 2003 WL 1432419 (Del. Ch. 2003).
43. Abrams, *Legal Bases*, 4.
44. See generally, e.g., Robert M. Jarvis and Phyllis Coleman, "Early Baseball Law," 45 *Am. J. Legal Hist.* 117 (2001).
45. See, e.g., *Mahn v. Harwood*, 112 U.S. 354 (1884).
46. See, e.g., *Mahn v. Harwood*, 16 F. Cas. 494 (C.C. Mass. 1878).
47. See, e.g., Issue of United States Notes and Bonds, Testimony Taken Before the Committee on Expenditures, 44th Cong., 1st Sess., H. Misc. Doc. No. 180 at 65 (G.P.O. 1876).
48. See, e.g., *Hinckley v. Cape Cod Railway Co.*, 120 Mass. 257 (1876).
49. See, e.g., Annual Report of the Board of Managers of the National Home for Disabled Volunteer Soldiers for the Year 1877, Committee on Military Affairs, 45th Cong., 2d sess., H. Misc. Doc. No. 49 (1878).
50. See, e.g., "The Beer-Bottle Affray," *Washington Post*, 3 August 1878, at 3.
51. See, e.g., *Watson v. Avery*, 65 Ky. 332 (1867) (Williams, J., dissenting).
52. See, e.g., *Allegheny Base-Ball Club v. Bennett*, 14 F. 257 (C.C. Pa. 1882).
53. See Robert H. Schaefer, "The Great Base Ball Match of 1858," 14 *Nine* 47 (2005).
54. See Leonard Koppett, *Koppett's Concise History of Major League Baseball* 135-48 (Carroll & Graf, updated and expanded ed. 2004); see also, e.g., Jerome Holtzman, *The Commissioners: Baseball's Midlife Crisis* (Total Sports 1998).
55. 259 U.S. 200 (1922).
56. *National League of Professional Baseball Clubs v. Federal Baseball Club of Baltimore*, 269 F. 681 (D.C. Cir. 1920).
57. See, e.g., "Senator Threatens to Impeach Landis: Dial Objects to Action of Judge in Bank Case," *Boston Daily Globe*, 13 February 1921, 1. For the ultimate outcome of Landis's most infamous decision, see *Berger v. United States*, 275 F. 1021 (7th Cir. 1921).
58. "Introduces Measure Against Judge Landis," *Washington Post*, 3 February 1921, 12.
59. "Welty Impeaches, Dial Flays Landis," *Boston Daily Globe*, 15 February 1921, 13.
60. "Landis Impeached by Welty in House," *New York Times*, 15 February 1921, 1; see also "The Double Judge," *New York Times*, 16 February 1921, 7.
61. "Gallivan Alone Defends Landis," *Boston Daily Globe*, 22 February 1921, 1.
62. Statement of Hon. Benjamin F. Welty, M.C., Conduct of Judge Kenesaw Mountain Landis, Hearings Before the Committee on the Judiciary, House of Representatives, Serial 25, 21 February 1921, at 4-5.
63. "Urge Landis Inquiry by Next Congress," *New York Times*, 2 March 1921, 10.
64. "Won't Impeach Landis," *New York Times*, 22 April 1921, at 12; Welty, Benjamin Franklin (1870-1962), in Biographical Directory of the United States Congress: 1774-present, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=W000291> (accessed 10 October 2009).
65. "Renews Fight to Impeach Landis," *Los Angeles Times*, 18 October 1921, 17.
66. "Bar Association Condemns Landis," *Boston Daily Globe*, 2 September 1921, 1; see also "Ohio Censure for Landis: Cleveland Bar Association Sees Impropriety in Holding Two Offices," *New York Times*, 10 March 1921, 10.
67. See, e.g., "The Dignity of the Bench," *Outlook*, 21 September 1921, 84.
68. "Landis Quits Bench for Baseball Job; Boomed for Mayor," *New York Times*, 19 February 1922, 1.
69. "Landis Quits to Aid Legion and Baseball: Too Much Work, His Excuse to Public," *Chicago Daily Tribune*, 19 February 1922, 1.
70. "Lajoie Signed by American League," *New York Times*, 9 February 1901, 10.
71. "Lajoie Leads All in Batting," *Boston Daily Globe*, 29 September 1901, 6; see also www.retrosheet.org/boxesetc/L/Plajon101.htm (accessed 10 October 2009).
72. *Philadelphia Base-Ball Club, Ltd. v. Lajoie*, 10 Pa. D. 309 (Pa. Ct. Common Pleas 1901); "Trying to Hold Lajoie," *Washington Post*, 27 March 1901, 8; "Lajoie Files His Reply," *Washington Post*, 20 April 1901, 8; "Baseball Appeal to Supreme Court," *New York Times*, 15 November 1901, 10.
73. *Philadelphia Ball Club v. Lajoie*, 51 A. 973 (Pa. 1902).
74. See, e.g., "Leagues at War: Lajoie Enjoined by a Court in Philadelphia," *Boston Globe*, 24 April 1902, 1.
75. "The Great Lajoie Back in the Game," *Boston Daily Globe*, 1 June 1902, 4; see also David Jones and Steve Constantelos, "Nap Lajoie," in Baseball Biography Project, <http://bioproj.sabr.org/bioproj.cfm?a=v&v=l&bid=1743&pid=7874> (Society for American Baseball Research, accessed 10 October 2009).
76. "Rogers in Court Again," *Washington Post*, 2 August 1902, 9; *Philadelphia Ball Club Co. v. Lajoie*, 13 Ohio Dec. 504 (Ohio Ct. Common Pleas 1902).
77. Cf. U.S. Const. art. III, § 2, cl. 1; *Bank of United States v. Deveaux*, 9 U.S. 61, 87 (1809) ("However true the fact may be, that the tribunals of the states will administer justice as impartially as those of the nation, to parties of every description, it is not less true that the constitution itself either entertains apprehensions on this subject, or views with such indulgence the possible fears and apprehensions of suitors, that it has established national tribunals for the decision of controversies between aliens and a citizen, or between citizens of different states."); Carl Bialik, "The Count: Do MLB Teams Enjoy a Home-Field Advantage From Umps?" *The Daily Fix*, 17 September 2009, <http://blogs.wsj.com/dailyfix/2009/09/17/the-count-do-mlb-teams-enjoy-a-home-field-advantage-from-umps/> (accessed 10 October 2009); see also *The Federalist* no. 80 (Alexander Hamilton); Erwin Chemerinsky, *Federal Jurisdiction* §5.3.2 (Aspen Publishers, 5th ed. 2007).
78. *Illfelder v. United States*, 1 U.S. Cust. App. 109, 111 (1910) (emphasis in original).
79. *Woody v. Taylor*, 77 S.E. 498, 500-01 (Va. 1913).
80. *State v. Kennedy*, 75 S.W. 979 (Mo. 1903).
81. See www.retrosheet.org/boxesetc/P/Ppattc101.htm (accessed 10 October 2009).
82. *State v. Kennedy*, 75 S.W. at 986-87, 989.
83. *State v. Brown*, 25 N.W. 248, 249 (Iowa 1885).
84. *Crow v. State*, 116 S.W. 52, 53 (Tex. Crim. App. 1909).
85. *People v. Cantwell*, 160 Ill. App. 652 (Ill. App. Ct.), aff'd 97 N.E. 287 (Ill. 1911).
86. *Young v. State*, 72 S.E. 935, 936 (Ga. Ct. App. 1911); cf. *Locke v. Ozark City Board of Education*, 910 So.2d 1247 (Ala. 2005).
87. *Hempton v. State*, 86 N.W. 596, 601-04 (Wis. 1901).
88. *Ex parte Neet*, 57 S.W. 1025 (Mo. 1900).
89. *Scougale v. Sweet*, 82 N.W. 1061 (Mich. 1900).
90. *Cronin v. Bloemecke*, 43 A. 605 (N.J. Ch. 1899).
91. *State v. Lawrence*, 130 P. 508, 510 (Okla. Crim. App. 1913); see also *Young v. New York, New Haven & Hartford Railroad Co.*, 121 N.Y.S. 517, 518 (N.Y. App. Div. 1910).
92. *Crane v. Kansas City Baseball & Exhibition Co.*, 153 S.W. 1076 (Mo. Ct. App. 1913); see also, e.g., "A Decision on Baseball," *Chicago Daily Tribune*, 23 June 1905, 8.
93. *City of Chicago v. Chicago League Ball Club*, 63 N.E. 695 (Ill. 1902).
94. *Chicago League Ball Club v. State of Illinois*, 1 Ill. Ct. Cl. 291 (1903).
95. *Berardini v. Tucci*, 190 F. 329 (C.C.S.D.N.Y. 1911), aff'd 200 F. 1021 (2d Cir. 1912); see also *Fujitsu Ltd. v. Netgear, Inc.*, 2009 WL 3047616 (W.D. Wis. 2009).
96. depth, II.12.a., OED Online (accessed 10 October 2009).
97. See, e.g., *Haywood v. National Basketball Ass'n*, 401 U.S. 1204 (1971) (Douglas, J., in chambers).
98. See, e.g., *Brown v. Pro Football, Inc.*, 518 U.S. 231 (1996).
99. See, e.g., *PGA Tour, Inc. v. Martin*, 532 U.S. 661 (2001).
100. See, e.g., *National Football League v. North American Soccer League*, 459 U.S. 1074 (1982).
101. See, e.g., *Archer v. Levy*, 543 So.2d 863 (Fla. Dist. Ct. App. 1989).
102. Westlaw, a leading legal database provider (www.westlaw.com), offers the following description of its "All Federal & State Cases" database:
The ALLCASES contains documents from the U.S. Supreme Court, courts of appeals, former circuit courts, district courts, bankruptcy courts, former Court of Claims, Court of Federal Claims, Tax Court, related

DAVIES: The Sport of Courts

- federal and territorial courts, military courts, the state courts of all 50 states and the local courts of the District of Columbia. A document is a case (a decision or order) decided by one of these courts. This database includes documents released for publication in West's National Reporter System, additional West reporters, and other publications . . . , "quick opinions" (cases available online prior to West advance sheets and which do not contain editorial enhancements), and opinions that are not scheduled to be reported by West, a Thomson business.
- See www.westlaw.com (accessed 10 October 2009).
103. See, e.g., National Sporting Goods Association, Sports Participation in 2008, www.nsga.org/i4a/pages/index.cfm?pageid=3483 (accessed 10 October 2009); see also Bryan Curtis, "The National Pastime(s)," *New York Times*, 1 February 2009, Weekend section, 5.
 104. For the relevant Boolean searches (conducted on 5 October in Westlaw's database "All Federal & States Case," or "ALLCASES"), see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 105. See www.gpoaccess.gov/crecord/index.html (accessed 10 October 2009).
 106. For the relevant Boolean searches (conducted on 5 October in Westlaw's database "Congressional Record," or "CR"), see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 107. See www.gpoaccess.gov/wcomp/index.html (accessed 10 October 2009).
 108. For the relevant Boolean searches (conducted on 5 October in Westlaw's database "Weekly Compilation of Presidential Documents," or "WCPD"), see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 109. For the relevant Boolean searches (conducted on 5 October in Westlaw's database "All Federal & States Case," or "ALLCASES"), see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 110. For the relevant Boolean searches (conducted on 5 October in Westlaw's database "Congressional Record," or "CR"), see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 111. For the relevant Boolean searches (conducted on 5 October in Westlaw's database "Weekly Compilation of Presidential Documents," or "WCPD"), see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 112. For the Boolean searches (conducted on 5 October in Westlaw's database "All Federal & States Case," or "ALLCASES") that provided the data for this statement, see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 113. See Rules of Golf, Rule 1—The Game, Decision 1-1/1, www.usga.org/Rule-Books/Rules-of-Golf/Rule-01/ (accessed 10 October 2009).
 114. But see Official Rules of the National Basketball Association, Rule No. 3—Players, Substitutes and Coaches § 1, www.nba.com/analysis/rules_3.html?nav=ArticleList (accessed 10 October 2009).
 115. See Official Rules of the National Basketball Association, Rule No. 10—Violations and Penalties §§ 7, 8, www.nba.com/analysis/rules_10.html?nav=ArticleList (accessed 10 October 2009).
 116. For the Boolean searches (conducted on 5 October in Westlaw's database "Congressional Record," or "CR") that provided the data for this statement, see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 117. For the Boolean searches (conducted on 5 October in Westlaw's database "Weekly Compilation of Presidential Documents," or "WCPD") that provided the data for this statement, see Ross E. Davies, "It's No Game: The Practice and Process of the Law in Baseball, and Vice Versa," 20 *Seton Hall Univ. J. Sports & Ent. L.* (2010).
 118. Waller, Cohen, and Finkelman, *Baseball and the American Legal Mind*, x.
 119. Act of April 10, 1869, ch. 22, 16 Stat. 44; see also 28 U.S.C. § 1.
 120. Daisy Fitzhugh Ayres, "Washington Social Letter: Chief Justice E. D. White Entertains His Distinguished Confreres Prior to His Summer Departure," [*New Orleans Times-Picayune*], 16 July 1916, 19.
 121. *New York Times*, 5 April 1979, A23, reprinted in Waller, Cohen, and Finkelman, *Baseball and the American Legal Mind*, 431; see also Akhil Reed Amar, "Hugo Black and the Hall of Fame," 53 *Alabama L. Rev.* 1221, 1221, and n.1 (2002).
 122. See <http://baseball.oyez.org/> (accessed 10 October 2009).
 123. See Koppett, *Koppett's Concise History of Major League Baseball*, 93–96, 103–4, 120, 133–48.
 124. But not the first in baseball. See Bill James, *The New Bill James Historical Baseball Abstract* 69 (Free Press 2001) (describing the National League's failed "court" headed by lawyer Louis C. Krauthoff).
 125. John B. Foster, "Pertinent Comment on Sporting Topics," *Anaconda [Mont.] Standard*, 6 February 1911, 8.
 126. "Baseball Will Change Methods," [*Boise Idaho Daily Statesman*], 14 April 1919, 3 (AP wire story).
 127. Daniel Ginsburg, "John Tener," in Baseball Biography Project, <http://bioproj.sabr.org/bioproj.cfm?a=v&v=l&bid=1228&pid=14055> (Society for American Baseball Research, accessed 10 October 2009); www.retrosheet.org/boxesetc/T/Ptnej101.htm (accessed 10 October 2009); Tener, John Kinley, (1863–1946), in Biographical Directory of the United States Congress: 1774–present, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=T000123> (accessed 10 October 2009).
 128. Charlie Bevis, *The New England League: A Baseball History, 1885–1949*, 31–48 (McFarland 2007).
 129. See www.supremecourtus.gov/about/courtbuilding.pdf (accessed 10 October 2009).
 130. "Forgot Court for Baseball Talk," *Philadelphia Inquirer*, 12 December 1908, 10; see also "Ball Player in House," *Washington Post*, 12 December 1908, 8; "Famous Baseball Graduates," *Washington Post*, 17 July 1910, M1 (reprinted from the *New York World*).
 131. "Solons to Play Ball," *Washington Post*, 10 July 1909, 2; "For Baseball Honors," *Boston Daily Globe*, 14 July 1909, 8; "Vreeland Out of Game," *Boston Daily Globe*, 16 July 1909, 4; "Baseball Victory for the Democrats," *New York Times*, 17 July 1909, 2; "Democrats Play Faster Baseball than Republicans," *Christian Science Monitor*, 17 July 1909, 9; James, *The New Bill James Historical Baseball Abstract*, 80; see also "Will Practice with Team: Representative Tener Has Not Lost His Love for Baseball," *Washington Post*, 22 April 1909, 8; "Congressmen to Have Ball Teams this Year," *Boston Daily Globe*, 1 February 1910, 7.
 132. See note 127 above; see also "In the Political Arena," *Washington Post*, 17 January 1911, 5.
 133. Landis, Kenesaw Mountain, in Biographical Directory of Federal Judges, www.fjc.gov/public/home.nsf/hisj (Federal Judicial Center, accessed 10 October 2009); Kenesaw Mountain Landis, in *History of the Game: Doubleday to the Present Day*, http://mlb.mlb.com/mlb/history/mlb_history_people.jsp?story=com_bio_1 (Major League Baseball, accessed 10 October 2009).
 134. See notes 57–69 above, and accompanying text.
 135. See generally David Pietrusza, *Judge and Jury: The Life and Times of Judge Kenesaw Mountain Landis* (Diamond Communications 1998).
 136. See www.baseballhalloffame.org/hofers/detail.jsp?playerId=111691 (accessed 10 October 2009); www.retrosheet.org/boxesetc/B/Pbunnj101.htm (accessed 10 October 2009); Perfect Games, in *History of the Game: Doubleday to the Present Day*, http://mlb.mlb.com/mlb/history/rare_feats/index.jsp?feature=perfect_game (Major League Baseball, accessed 10 October 2009).
 137. See Bunning, James Paul David, (1931–), in Biographical Directory of the United States Congress: 1774–present, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=B001066> (accessed October 10, 2009); Ben Pershing and Chris Cillizza, "Under Pressure, Bunning Will Not Seek Third Term," *Washington Post*, 27 July 2009.
 138. See notes 133–35 above, and accompanying text; see also Mitchell, George John, (1933–), in Biographical Directory of the United States Congress: 1774–present, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=M000811> (accessed 10 October 2009); Mitchell,

The Baseball Research Journal, Fall 2009

- George John, in Biographical Directory of Federal Judges, www.fjc.gov/public/home.nsf/hisj (Federal Judicial Center, accessed 10 October 2009).
139. See notes 54–57 above and accompanying text; George J. Mitchell, Report to the Commissioner of Baseball of an Independent Investigation into the Illegal Use of Steroids and Other Performance Enhancing Substances by Players in Major League Baseball (13 December 2007), <http://mlb.mlb.com/mlb/news/mitchell/report.jsp> (accessed 10 October 2009).
 140. See note 138 above.
 141. See, e.g., “Trust Comes Later,” *Houston Chronicle*, 30 November 1999, A26; note 135 above.
 142. See www.cov.com/mmosier/ (accessed 10 October 2009).
 143. Alan Schwarz, “A Uniting Force Behind the Scenes,” *New York Times*, 24 June 2009, B13; “Twins Hang On,” *New York Times*, 3 October 2009, D4.
 144. See notes 1–5, 38–42, and 104–17 above and accompanying text.
 145. Lester Chadwick, *Baseball Joe at Yale or Pitching for the College Championship*, 21–22 (1913).
 146. Jim Bouton, *Ball Four: My Life and Hard Times Throwing the Knuckleball in the Big Leagues*, ed. Leonard Shecter, 336 (World Publishing 1970).
 147. See www.retrosheet.org/boxesetc/1969/B08280SLN1969.htm (accessed 10 October 2009).
 148. Neil Sheehan, C. F. Haynsworth Named by Nixon for High Court, *New York Times*, 19 August 1969, at 1.
 149. Henry J. Abraham, *Justices, Presidents, and Senators: A History of the U.S. Supreme Court Appointments from Washington to Clinton* 10, 30–31 (Rowman and Littlefield, rev. ed. 1999).
 150. Bill James, *The Politics of Glory: How Baseball's Hall of Fame Really Works*, 423–24 (Macmillan 1994).
 151. Carswell, George Harrold, in Biographical Directory of Federal Judges, www.fjc.gov/public/home.nsf/hisj (Federal Judicial Center, accessed 10 October 2009).
 152. 116 Cong. Rec. 7498 (1970).
 153. See Abraham, *Justices, Presidents, and Senators*, 11–13.
 154. See www.baseballhalloffame.org/hofers/detail.jsp?playerId=121257.
 155. See The Justice Harry A. Blackmun Oral History Project 18, 184–85 (Supreme Court Historical Society and Federal Judicial Center, 1994–95).
 156. See, e.g., Lawrence S. Ritter, *The Glory of Their Times: The Story of the Early Days of Baseball Told by the Men Who Played It*, 37–38, 86, 153–54, 332–33 (William Morrow, new enlarged ed. 1984).
 157. Leo Durocher with Ed Linn, *Nice Guys Finish Last* 262 (Simon and Schuster 1975).
 158. See the 6 charts and 6 tables on pages 66–68 above.
 159. *Northern Securities Co. v. United States*, 193 U.S. 197, 364 (1904) (Holmes, J., dissenting).
 160. Abraham, *Justices, Presidents, and Senators*, 51.
 161. *Id.*, 122–23.
 162. E. J. Edwards, “Our Supreme Court as Human Beings,” *Sunday [Portland] Oregonian*, 5 June 1910, § 6, page 4.
 163. See notes 128–30 above and accompanying text.
 164. Members of the Supreme Court of the United States, www.supremecourtus.gov/about/members.pdf (accessed 10 October 2009).
 165. Confirmation Hearing on the Nomination of John G. Roberts, Jr. to Be Chief Justice of the United States: Hearing Before the Comm. on the Judiciary, S. Hrg. 109–158, 109th Cong., 1st sess. (2005) 31 (statement of Judge John G. Roberts Jr.).
 166. equation, III.5, OED Online (accessed 10 October 2009) (“The action of stating the identity in value of two quantities or expressions”).
 167. analogy, 5 & 9, OED Online (accessed 10 October 2009) (“similarity” and “Resemblance of form or function between organs which are essentially different (in different species), as the analogy between the tail of a fish and that of the whale, the wing of a bat and that of a bird, the tendril of the pea and that of the vine”).
 168. See generally Confirmation Hearing on the Nomination of John G. Roberts, Jr. to Be Chief Justice of the United States: Hearing Before the Comm. on the Judiciary, S. Hrg. 109–158, 109th Cong., 1st sess. (2005); see, e.g., Thomas Oliphant, “Kennedy’s Doubts on Roberts May Prove Right,” *Boston Globe*, 29 September 2005, A11; Katherine M. Skiba, “Roberts a Step Closer to Chief Justice,” *Milwaukee Journal Sentinel*, 23 September 2005, 1; Ellen Goodman, “Roberts Seems Disingenuous in Veiling the Man Behind the Robe,” *Deseret Morning News*, 23 September 2005; “Senate Committee Approves Roberts Nomination,” *NPR: All Things Considered*, 22 September 2005; editors, “Hail to the Chief,” *National Review*, 21 September 2005; “Confirming Roberts Sets Good Example,” *Wisconsin State Journal*, 30 September 2005, A6; cf. *Charles O. Finley & Co. v. Kuhn*, 569 F.2d 527, 537 (7th Cir. 1978) (“While it is true that professional baseball selected as its first Commissioner a federal judge, it intended only him and not the judiciary as a whole to be its umpire and governor” [footnote omitted]).
 169. See Benjamin Wittes, *Confirmation Wars: Preserving Independent Courts in Angry Times* (Rowman and Littlefield 2006).
 170. See James, *The New Bill James Historical Baseball Abstract*, 53.
 171. Compare, e.g., Scott Simon, *Jackie Robinson and the Integration of Baseball* 108 (Wiley 2002), with *id.* at 109–49.
 172. See Paul Finkelman, “Baseball and the Rule of Law Revisited,” 25 *Thomas Jefferson L. Rev.* 17, 32–39 (2002).
 173. 347 U.S. 483 (1954); see also Dennis J. Hutchinson, “Unanimity and Desegregation: Decisionmaking in the Supreme Court, 1948–1958,” 68 *Georgetown L.J.* 1 (1979).
 174. *Flood v. Kuhn*, 407 U.S. at 284–85.
 175. See Snyder, *A Well-Paid Slave*, 201–34.
 176. 542 F.3d 290, 334 (2d Cir. 2008) (Sotomayor, J., concurring in the judgment).
 177. 880 F. Supp. 246 (S.D.N.Y. 1995).
 178. John Thorn, Phil Birnbaum, and Bill Deane, *Total Baseball: The Ultimate Baseball Encyclopedia* 88, 96–97, 236 (Sport Classic Books, 8th ed. 2004); see also, e.g., Gary Gillette and Pete Palmer, *The ESPN Baseball Encyclopedia* 82, 183–85, 190, 194 (Sterling, 5th ed. 2008).
 179. Index, 259 U.S. 593, 596, 597, 618 (1922); Index, 407 U.S. 935, 936 (1972).
 180. See “The Double Judge,” *New York Times*, 23 February 1921, 12.

BASEBALL AND LAW

Arbitrator Seitz Sets the Players Free

Roger I. Abrams

INTRODUCTION

THE MOST IMPORTANT labor arbitration decision of all time involved baseball, two pitchers and one of the finest labor arbitrators of all time, a true arbitration “superstar.” His 1975 decision in baseball’s Messersmith case still reverberates throughout the multibillion-dollar sports industry. Arbitrator Seitz set the players free.

Peter Seitz was a role model for many of us who came to arbitration in the 1970s. He was a neutral designed by central casting, with flowing silver hair and a three-piece suit. His work is legendary. In 1975, as the designated permanent arbitrator under the basic agreement between Major League Baseball and the Major League Baseball Players Association, the parties asked Seitz to resolve a dispute concerning the interpretation and application of baseball’s reserve system.

From the earliest days of organized professional baseball, club owners had restricted the right of players to move from club to club in order to diminish their bargaining power and restrain their salaries. A player could negotiate only with one club, the one that listed him on its “reserve list.” Other clubs could not tamper with a reserved player by offering him a more attractive salary. Unless his contract was sold, traded, or terminated, the player remained reserved forever, even after he had formally retired from the game.

This century-old personnel system would be demolished by Arbitrator Seitz. He ruled that the so-called “reserve clause”—in fact, it was a combination of provisions in the uniform players contract and the governing rules of baseball—only allowed a club to renew a player’s contract once and not perpetually.¹ As a matter of policy, I agree with Seitz’s conclusion. As a matter of arbitration decisionmaking, I will argue that his ultimate conclusion was in error.

A few caveats are in order. First, arbitrators write opinions very quickly. Parties seek a resolution of their disputes with a statement of reasons for the results. They do not want (or need) a law review article. In this case, Peter Seitz issued his award in a matter of days—not months. He should be excused if upon reflection some feel his work was not perfect. Second, any analysis of the Messersmith award must be based on the data described in the opinion and further evidence discussed in the federal courts on appeal.²

Undoubtedly, there was more evidence before Arbitrator Seitz, although I think we can assume that he marshaled his best arguments. He knew how important this case was to the parties. He tried hard to get them to settle the fundamental issue that divided them, but without success. Finally, Dick Moss, a superb California sports lawyer, who tried and won the case for the Players Association, disagrees with my analysis, as I expected he would. I value his judgment. I was not there when collective bargaining agreements (CBAs) were negotiated in 1968, 1970, and 1973, nor was I at the arbitration hearing. The written decision, however, must stand based on what it says, not on what it could have said.

THE FACTS AND PROCEEDINGS

John Alexander Messersmith was a splendid right-handed starting pitcher. After hurling for the California Angels for five years, Messersmith was traded to the Dodgers in 1973. Over three seasons in Chavez Ravine he won 53 games and lost 41, including a 20-win, 6-loss campaign in 1974. His 13-year career statistics were an impressive 130 wins and 99 losses, with a 2.86 earned-run average.

Unable to reach a new contract with its player before the 1975 season, the Dodgers organization exercised its power to renew Messersmith’s contract. At the close of the 1975 season, however, Messersmith claimed that he was a free agent because the Dodgers could no longer unilaterally extend his contract. The Players Association filed a grievance on his behalf, contending that the Dodgers no longer retained the exclusive right to employ Messersmith.³

Because the Players Association was concerned that Dodgers club owner Walter O’Malley might settle the dispute with Messersmith and end the arbitration case short of a decision on the merits, it added a second grievant to its case. Dave McNally had retired during the 1975 season, completing a stellar 14-year major-league career. The southpaw had been a stalwart of the Baltimore Orioles staff, winning 181 games and losing only 113. During a four-year span from 1968 through 1971, McNally might have been the best pitcher in baseball. He won 20 or more games each year for a total of 87 wins, while losing only 31. His

club was in the World Series three of those four years and won the Series four games to one in 1970 over Cincinnati's Big Red Machine. McNally finished his career with 12 appearances for Montreal in 1975, and, although he retired, the Expos retained him on its reserve list.⁴ He too claimed that, upon completion of his 1975 option year, he became a free agent. (McNally, of course, had no intention of returning to the game, but he agreed to participate in the arbitration, serving, in effect, as a "relief grievant." When the case ended, he returned to his hometown of Billings, Montana, where he and his brother Jim owned and operated two Ford dealerships.)

Under the basic agreement between Major League Baseball and the Major League Baseball Players Association, a tripartite board heard all grievances. Marvin Miller represented the union, and John Gaherin the owners. Of course, the neutral cast the deciding vote. The panel heard the Messersmith case on an expedited basis. The grievance was filed on October 1, 1975, and hearings were held on November 21 and 25 and December 1. From the very start, Seitz tried to convince the parties to resolve the matter privately without his intervention. He appreciated how significant the case was in the history of the business of baseball, but his

efforts to bring about a voluntary settlement failed. This case would have to go to decision, however—settlement, if any, of this fundamental dispute would have to follow an arbitration award and not precede it.

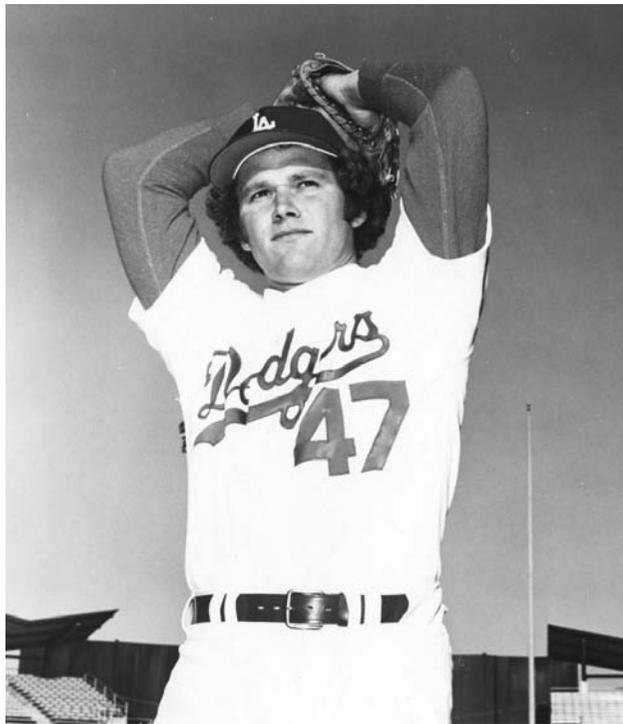
The Players Association sought an interpretation of the uniform player contract provision that allowed the club to renew the contract "on the same terms" for "one year." In his autobiography, *A Whole Different Ballgame*,⁵ Marvin Miller, the executive director of the Players Association, explained that this contract language had always been perfectly clear to him—"one year" means "only one year." Management, on the other hand, believed that the option clause was one of those terms in the contract that was renewed when the option was exercised. Looking only at Paragraph 10(a) of the Uniform Player's Contract, it seems apparent to me that the Players Association had the better of the argument. The language could have been made stronger—language can always be made better in hindsight—by saying that the contract can be renewed "only once," but, even without this modifier, a commonsense reading of the clause favored the union's interpretation. Yet, the clause was not unambiguous. The option to renew did not exclude any of the contract provisions.

ARBITRABILITY

Before proceeding to the merits of the dispute, Arbitrator Seitz had to answer an extremely difficult arbitrability question. The grievance and arbitration provision was of the typically broad variety. "Grievance" was defined as "a complaint which involves the interpretation of, or compliance with, the provision of any agreement between the Association and the Clubs or any of them, or any agreement between a Player and a Club" The clause did contain a few express exceptions to the coverage of the arbitration promise, but said nothing about disputes concerning the reserve system.⁷ Article XV of the basic agreement stated, however, that "[e]xcept as adjusted or modified hereby, this Agreement does not deal with the reserve system."⁸ Since the agreement did not deal with the reserve system, management argued that the matter was not arbitrable, because only disputes concerning the interpretation of the provisions of the agreement were arbitrable.

All arbitrators have heard disputes where the parties say one thing in their contract but mean something else. But Article XV was a different ballgame. The basic agreement *obviously* dealt with the reserve system. It incorporated by reference the uniform player contract that contained the option clause and the major-league rules that set forth the system of reserve lists⁹ and no-tampering edicts¹⁰ that made the reserve system operate.

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



After Andy Messersmith and the Dodgers failed to come to terms in 1975, the Dodgers exercised their power to renew his contract. In December, arbitrator Peter Seitz ruled that the Dodgers could not again renew the contract unilaterally. For Messersmith, this meant he was now a free agent; for Major League Baseball, that the reserve clause was dead.

ABRAMS: Arbitrator Seitz Sets the Players Free

In his opinion, Arbitrator Seitz correctly found the dispute arbitrable. He explained the origin of the curious Article XV. The Players Association had proposed an earlier version of this provision when the Curt Flood antitrust suit was pending. The union sought to avoid being held liable for damages as a “co-conspirator” if Flood prevailed on his claim. Contract language to this effect was first suggested to the Association by Flood’s counsel, former Supreme Court Justice Arthur Goldberg.¹¹ The 1973 version of Article XV¹² was placed in the agreement after the Supreme Court rejected Flood’s claim.¹³ This would allow both parties to argue to Congress that the agreement did not embody the reserve system.¹⁴ Arbitrator Seitz’s decision finding the matter arbitrable would later be enforced on appeal. Courts see issues of arbitrability as not requiring the deference mandated by the Supreme Court toward issues on the merits.¹⁵ The Eighth Circuit, in an opinion authored by Judge Heaney, *Kansas City Royals v. Major League Baseball Players Association*,¹⁶ did a careful investigation of the record before reaching its conclusion that the grievance was arbitrable:

The essence of the Club Owners’ arguments on the question of arbitrability was perhaps best articulated in the testimony of Larry [*sic*] McPhail, President of the American League, in which he stated: “Isn’t it fair to say that our strong feelings on the importance of the core of the reserve system would indicate that we wouldn’t permit the reserve system to be within the jurisdiction of the arbitration procedure?” The weaknesses in this argument have been previously discussed. . . . We add only that what a reasonable party might be expected to do cannot take precedence over what the parties actually provided for in their collective bargaining agreement.¹⁷

Unable to find the requisite “forceful evidence of a purpose to exclude the grievances here involved from arbitration,”¹⁸ the court enforced Seitz’s ruling.

THE MERITS

Arbitrator Seitz quickly disposed of the central issue on the merits. “One year,” he wrote, meant “one year.” The option clause covered a single renewal of the terms of the contract. He did not accept management’s argument that by renewing the entire contract, the club also renewed the option clause. Seitz reasoned that management’s analysis would make the option perpetual. If parties wanted to do this, they could, but it would have to be spelled out in clear and unmistakable terms in the

body of the contract. In support of this proposition, Seitz relied on New York state real estate cases—not necessarily the best support for reading a CBA.

Here is where I would join issue with the esteemed arbitrator. I suggest that in reading the ambiguous contract language, he ignored the recent bargaining history between the parties and the century-old narrative of the relationship between owners (early on called “magnates”) and their players. No one at the negotiating table in 1968, 1970, or 1973 could reasonably have thought that *both parties* had agreed to discard their history and effect a fundamental change in the reserve system.

There is no question that Marvin Miller believed that the uniform contract allowed for only a single renewal. He certainly wanted that to be the case. If it was the case, then why had no player from 1879—when the reserve system was first adopted by the owners—to 1973 ever “played out his option” and declared he was a free agent?¹⁹ For almost a century, players and owners acted as if the reserve system was perpetual.

BARGAINING HISTORY

More to the immediate point is the compelling evidence of bargaining history explored in depth by the Eighth Circuit in reviewing the Seitz award. The court described this evidence as relevant to its inquiry on arbitrability, but it is quite telling on the merits issue as well. The first CBA between the Players Association and Major League Baseball was reached on February 19, 1968. That agreement incorporated the essential elements of the reserve system by reference. The renewal clause of the uniform player’s contract and the relevant major-league rules were made part of the agreement. Article VIII of the 1968 basic agreement provided that “[t]he parties shall review jointly . . . (b) possible alternatives to the reserve clause as now constituted.”²⁰

In fact, the parties held three meetings to discuss the possible modification of the reserve system, but no agreement was reached. Miller later testified that no further discussions were held because the club owners refused to consider significant changes in the reserve system. Standing alone, this evidence supports the conclusion that the reserve system, as practiced previously under the renewal clause and the major-league rules, was *not* altered in the 1968 negotiations. No one could reasonably conclude that the union had procured a *modification* in that system at the bargaining table. The parties had agreed to “review” the issue jointly, shelving the matter for the duration of the agreement.

THE 1970 AGREEMENT

During negotiations over the 1970 CBA, the Players Association submitted a number of proposals to directly modify the reserve system. One proposal would have given a player the option of becoming a free agent once every three years. Management rejected the union's proposals as unacceptable. The plan, the owners said, attacked "the heart of the game and the reserve system."²¹ By February 1970, the parties had reached an impasse on any changes to the reserve system. Miller then suggested:

We are not making any progress on modifications in the Reserve System. We are running out of time, in terms of the date of the negotiations, the approach of the season, and if it is mutually desirable to make an agreement, we have got to do something about this issue that we are not making any progress on, and therefore we ought to set it aside.²²

The parties also sparred over the implications of the pending Curt Flood case. That was when the Players Association proposed the following language:

Regardless of any provision herein to the contrary, the Basic Agreement does not deal with the reserve system. *The parties have differing views as to the merits of such system as presently constituted.* This Agreement shall in no way prejudice the parties or any player's position or legal rights related thereto.

During the pendency of any present litigation relating to the reserve system, it is agreed that the parties will not during the term of this Agreement resort to strike or lockout on that issue. However, upon the rendering of a final court decision in such litigation, either party may upon the giving of 30 days' written notice to the other party, reopen this Agreement and thereafter the parties may resort to any legal and appropriate action in support of their respective positions on this issue.²³

Although designed to address the potential of co-conspirator liability in the Flood suit, this language plainly stated that there was a reserve system "presently constituted," about which the parties have differing views on the merits.

The club owners counterproposed:

Regardless of any provision herein to the contrary, this Basic Agreement does not constitute an agreement between the parties as to the merits or legality of the reserve system. This Agreement shall in no way prejudice the position or legal rights of the parties or of any player regarding the reserve system.

It is agreed that during the term of this Agreement neither of the parties will resort to any form of concerted action, or encourage or support, directly or indirectly, any claim or litigation (other than *Flood v. Kuhn, et al.*, pending in the U.S. District Court for the Southern District of N.Y.) on the issue of the reserve system, or any part thereof, and neither of the parties shall be obligated to negotiate regarding the reserve system.²⁴

This language also assumes the existence of a reserve system, although it eliminated the reference to the parties' "differing views" on the merits. The final language, in relevant part, embodied a sprinkle of each proposal:

The parties have differing views as to the legality and as to the merits of such system as presently constituted. This Agreement shall in no way prejudice the position or legal rights of the Parties or of any Player regarding the reserve system.²⁵

Thus, the 1970 agreement accepted the fact that there was a reserve system "presently constituted," and it reserved the parties' and the players' "legal rights" regarding this system. The parties reached agreement on May 12, 1970. Once again, that basic agreement incorporated the relevant uniform player contract provisions and the prevailing rules of the reserve system.

Management's negotiator, Louis Hoynes, later quoted Miller as having said during those negotiations that the reserve system "is going to be outside the Agreement. It will not be subject to the Agreement, but we will acquiesce in the continuance of the enforcement of the rules as house rules and we will not grieve over those house rules."²⁶ Miller denied making the statement. Even if he said nothing agreeing to the continuance of the reserve system, the history of the 1970 negotiations cannot possibly be read as modifying the existing reserve system in any way. Prior to the start of the 1971 season, however, Miller told the players that, "in his view, a player could become a free agent by playing for one year under a renewed contract."²⁷ Based on the evidence we have, it is hard to see how he reached this judgment. It was wishful

ABRAMS: Arbitrator Seitz Sets the Players Free

thinking, but sometimes wishes come true, as they eventually did here.

THE 1973 NEGOTIATIONS

Once again, in the 1973 negotiations, the Players Association brought to the table proposals to modify the reserve system. The club owners rejected all but two. One proposal was not very controversial and did not go to the heart of the reserve system. Under the new provision, a player who had been in the major leagues at least 10 years and had played for his present club for at least the past five years could veto a trade. A second provision addressed an aspect of the new salary arbitration procedure for resolving salary disputes through final offer arbitration and raised some controversy. The owners demanded that a player and his club must execute a uniform player contract before the arbitration hearing, only leaving open the portion of paragraph 2 of the contract that sets the salary. The union objected to the application of the requirement when the player does not file for salary arbitration. Miller testified that he stated his objection as follows:

I said to the owners' representatives, "It is clear to us what you are trying to do and it ought to be equally clear why it is not acceptable. Under the present set of restrictive rules, there is one procedure left to the player; that is, he can refuse to sign and can play under the owner's option for one year." I continued by saying, "What you have proposed is not only to not modify the reserve system, as we have proposed, but also to close the last vestige of rights, the right of the player to become a free agent after a one-year renewal."²⁸

Management negotiators had a very different recollection of Miller's statement. They did not view Miller's statement as relating to free agency at all. Based on previous and contemporary negotiations, if Miller had said that a player has the right to declare free agency upon expiration of a renewal year, it is likely that the club owners would have hit the roof!

The parties made no progress on any further changes in the reserve system. The bargaining impasse continued into February 1973, and the owners announced that they would lock the players out of pre-spring training, which was scheduled to begin shortly.

Miller then proposed that the parties again set aside the issue of the reserve system, much as they had done in 1970. He was concerned, however, that the agreement with that curious statement, discussed above,

that "this Agreement does not deal with the reserve system" might be read to allow club owners to make unilateral changes in the system to the detriment of the players. He therefore obtained a side letter from baseball management:

The following will confirm our understandings with regard to Article XV of the Basic Agreement effective January 1, 1973:

1. Notwithstanding the above provision, it is hereby understood and agreed that the Clubs will not during the term of the Agreement, make any unilateral changes in the Reserve System which would affect player obligations or benefits.
2. It is hereby understood and agreed that during the term of the Agreement the Clubs will indemnify and save harmless the Players Association in any action based on the Reserve System brought against the Association as a party defendant.²⁹

The first clause is of particular importance: *The owners agreed not to change the reserve system. That must mean that the reserve system as operated historically continued unchanged.*

As far as we know, this was the entire record of the bargaining history presented to Arbitrator Seitz in 1975. He concluded that in fact the option clause only allowed a club to reserve a player for one year. I have trouble understanding how this record justifies this conclusion. At best, the Players Association won maintenance of the status quo. That status quo could *not* have been a single-year option renewal. That is exactly what the Players Association sought to change. It failed to do so in negotiations, but, as the saying goes, it was successful in arbitration.

EXTRA INNINGS

Obviously, there must have been something else in the record that moved Arbitrator Seitz to his conclusion. He might have thought that the old reserve system was bad policy—and I would agree. That could not have been why he acted, however. Having no choice other than to grant or deny the grievance—neither result was a better option than a private settlement—Seitz went with his experienced intuition. Perhaps he appreciated that an award for management would have calcified the reserve system forever, but that an award for the union would lead to bargaining to fine-tune any new

reserve system. Baseball Commissioner Bowie Kuhn quickly dismissed Seitz as the permanent neutral, accusing him of having had “visions of the Emancipation Proclamation dancing in his eyes.”³⁰ It was certainly a “liberation arbitration.”

On appeal, the district court and the Eighth Circuit upheld the Seitz award on the merits using the appropriate limited standard of review under the *Steelworkers Trilogy*.³¹ Peter Seitz was interpreting the contract, and that was exactly what the parties said they wanted. The fact that the owners thought he was wrong on the merits was irrelevant on review.

Following the Eighth Circuit’s decision, the parties returned to the bargaining table. To provide an “incentive” to reach an accommodation, the owners locked the players out of the 1976 spring training. The club owners could not countenance a system where its employees could select their employers without restriction. At the bargaining table they demanded restrictions on free agency, and, perhaps to their amazement, the Players Association agreed.

Marvin Miller, that wily labor leader, understood his economics better than baseball management. There would be chaos off the playing field if every player was able to declare free agency at the close of any season after the option clause had been exercised once. Miller knew that the more willing sellers (players) in the marketplace, the lower the price (the salary). He wanted to restrict the number of players who could participate in the free agency auction to keep up the price. The deal the parties reached required a player to accumulate six years of major-league service before becoming eligible for free agency.

The rest, they say, is history. Player salaries skyrocketed, increasing sevenfold in the next decade as the free market came to baseball.³² The fears expressed by owners about baseball dynasties proved unfounded in the short run. In that first decade, ten different clubs won the World Series—the only time that has happened in the history of the century-old post-season tournament. Since that time, the parties have tinkered with their reserve/free agency system, but it has remained fundamentally unchanged.³³ The old version of the reserve system under which management sets a player’s salary applies until a ballplayer is eligible for salary arbitration—in general after three years of major-league service. As long as it pays at or above the minimum salary prescribed by the agreement, the club holding the rights to the player determines the precise salary. At the final offer salary arbitration stage, arbitrators place the player within the industrywide salary scale based on his performance, selecting either

the owner’s final offer or the player’s final demand. Finally, at free agency after six years of major-league service, the free market takes over, at least among those teams with the resources to participate in the high-priced auction.

CONCLUSION

Peter Seitz’s monumental decision in the Messersmith case changed the National Game forever. He was a wise and diligent neutral. In retrospect, perhaps the move away from the old restrictions on players was inevitable. In this light, Seitz should be applauded for being a visionary in the vanguard of change, not a customary position for a labor arbitrator, not one he asked to assume, but one that was thrust upon him by two parties unable to address their own issues. “Let the arbitrator do it,” they proclaimed, and he did. ■

Notes

1. *Professional Baseball Clubs*, 66 LA 101 (Seitz 1975).
2. *Kansas City Royals v. Major League Baseball Players Association*, 532 F.2d 615 (8th Cir. 1976).
3. The Players Association had supported the ill-fated effort of St. Louis Cardinals outfielder Curt Flood to have the federal courts overrule a half-century of precedent and declare that baseball was covered by the antitrust laws. (In its 1922 decision in *Federal Baseball v. National League*, 259 U.S. 200, a unanimous U.S. Supreme Court had ruled that baseball was a purely “state affair” not affecting interstate commerce.) Flood had refused a 1969 trade to the Philadelphia Phillies and brought suit, claiming the reserve system violated the antitrust laws. Although he ultimately struck out in the Supreme Court, *Flood v. Kuhn*, 407 U.S. 258 (1972), many remember Flood as a valiant champion of the players’ revolution. The Players Association next turned its attention to the grievance procedure, where victory would be theirs.
4. Under the reserve system, were McNally to return to the major leagues he could sign only with the Expos, unless his rights were transferred to another club.
5. Miller, *A Whole Different Ballgame* (Birch Lane Press 1991).
6. *Kansas City Royals*, 532 F.2d at 618.
7. Article X(A) (1) provided:
 - (a) . . . disputes relating to the following agreements between the Association and the Clubs shall not be subject to the Grievance Procedure set forth herein:
 - (i) The Major League Baseball Players Benefit Plan.
 - (ii) The Agreement Re Major League Baseball Players Benefit Plan.
 - (iii) The Agreement regarding dues check-off.
 - (b) . . . “Grievance” shall not mean a complaint which involves action taken with respect to a Player or Players by the Commissioner involving the preservation of the integrity of, or the maintenance of public confidence in, the game of baseball.
 - (c) . . . “Grievance” shall not mean a complaint or dispute which involves the interpretation or application of, or compliance with the provisions of the first sentence of paragraph 3(c) of the Uniform Player’s Contract [Pictures and Public Appearances]. *Ibid.* at 618 n.1.
8. *Ibid.* at 618.
9. Rule 4-A(a) FILING. On or before November 20 in each year, each Major League Club shall transmit to the Commissioner and to its League President a list of not exceeding forty (40) active and eligible players, whom the club desires to reserve for the ensuing season; and also a list of all its players who have been promulgated as placed on the Military, Voluntarily Retired, Restricted, Disqualified, Suspended or Ineligible Lists; and players signed under Rule 4 who do not count in the club’s under control limit. On or before November 30 the League President shall transmit all of said lists to the Secretary-Treasurer of the Executive Council, who shall

ABRAMS: Arbitrator Seitz Sets the Players Free

- thereupon promulgate same, and thereafter no player on any list shall be eligible to play for or negotiate with any other club until his contract has been assigned or he has been released. *Ibid.* at 622.
10. Rule 3(g) TAMPERING. To preserve discipline and competition, and to prevent the enticement of players, coaches, managers and umpires, there shall be no negotiations or dealings respecting employment, either present or prospective, between any player, coach or manager and any club other than the club with which he is under contract or acceptance of terms, or by which he is reserved, or which has the player on its Negotiation List, or between any umpire and any league other than the league with which he is under contract or acceptance of terms, unless the club or league with which he is connected shall have, in writing, expressly authorized such negotiations or dealings prior to their commencement. *Ibid.*
 11. It should be noted in passing that Goldberg was wrong in his analysis of antitrust law. If the restraint of trade was the product of collective bargaining and embodied in the CBA, it would be immune from antitrust liability. *Amalgamated Meat Cutters v. Jewel Tea Co.*, 381 U.S. 676 (1965) (agreements reached through collective bargaining may be exempt from federal antitrust laws).
 12. Except as adjusted or modified hereby, this Agreement does not deal with the reserve system. The Parties have differing views as to the legality and as to the merits of such system as presently constituted. This Agreement shall in no way prejudice the position or legal rights of the Parties or of any Player regarding the reserve system. *Kansas City Royals*, 532 F.2d at 618.
 13. *Flood v. Kuhn*, 407 U.S. 258 (1972), has been the subject of much critical comment. See, e.g., Abrams, *Legal Bases: Baseball and the Law* (Temple University Press 1998). In short, the Supreme Court, in a 5–4 decision authored by Justice Harry Blackmun, concluded that baseball's antitrust exemption created by the Supreme Court in 1922 (*Federal Baseball Club v. National League*, 259 U.S. 200 [1922]) was "illogical" and an "aberration." Nonetheless, the Court left it to Congress to clean up the mess the Court had made. In fact, it left the dispute to Arbitrator Peter Seitz and the parties in their subsequent negotiations.
 14. Louis Hoynes, counsel to the National League, testified in arbitration: "This language simply was an ambiguous, intentionally ambiguous, compromise of a point that would give both parties an opportunity to get up before a Congressional Committee and argue whether or not something had been done in the area of the Reserve System, and Mr. Miller indicated that he had a favorable reaction to that language, that he would review it and then we proceeded to other matters." *Kansas City Royals*, 532 F.2d at 628.
 15. We will leave to another day the issue of the appropriate judicial deference to an arbitrator's decision on arbitrability. While the Supreme Court has stated that the question of whether there was a promise to arbitrate the dispute at hand is for a court to make (*Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960)), I would argue that, upon review of an arbitration decision, the court should give deference to those facets of the arbitrator's decision that involved interpretations of contract language. If arbitrators are expert "contract readers," then that expertise encompasses both issues of arbitrability and the merits.
 16. 532 F.2d 615 (8th Cir. 1976).
 17. *Ibid.* at 630.
 18. *Ibid.*
 19. It is true that freed from the specter of antitrust liability by a foolish Supreme Court decision in 1922 (*Federal Baseball v. National League*, 259 U.S. 200), owners could blackball recalcitrant players. Playing out your option was not cost-free. There had been much litigation, however, whenever a rival league appeared on the scene and players served out their contracts and jumped to the other circuit. These were cases where one would have expected a player to have raised the contention that the option clause allowed for only a one-time renewal.
 20. *Kansas City Royals*, 532 F.2d at 623.
 21. *Ibid.* at 624.
 22. *Ibid.*
 23. *Ibid.* (emphasis added).
 24. *Ibid.* at 625.
 25. *Ibid.* at 618–19.
 26. *Ibid.* at 626.
 27. *Ibid.*
 28. *Ibid.* at 627.
 29. *Ibid.* at 628–29.
 30. Abrams, *Legal Bases: Baseball and the Law* (Temple University Press 1998), at 132.
 31. *Steelworkers v. American Mfg. Co.*, 363 U.S. 564, 46 LRRM 2414 (1960); *Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574, 46 LRRM 2416 (1960); *Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593, 46 LRRM 2423 (1960).
 32. In 1985, however, the Players Association noticed that premier free agents, like Carlton "Pudge" Fisk, were receiving no offers from other clubs until their club indicated they no longer wanted to keep the player. The union went back to arbitration before Tom Roberts and later George Nicolau and successfully proved management collusion in violation of the basic agreement.
 33. Baseball management tried to reform its wage system during the 1994–95 negotiations, but without success. It proposed a salary cap, an anathema to the union. The union struck in August 1994 and then counterproposed a luxury tax that would dampen, but not eliminate, the free market of free agency. Commissioner Bud Selig cancelled the World Series (the first time it was not held since the 1904 hiatus). Frustrated at the table, the owners unilaterally implemented their salary cap scheme. The labor board found the parties had not reached an impasse in bargaining on this matter and thus determined that the union's unfair labor practice charge had merit. Management withdrew its new cap system, then unilaterally instituted other changes that abolished salary arbitration, club-based negotiations over free agents, and the anti-collusion provision. The board again found merit in the union's charge and obtained a Section 10(j) injunction in the Southern District of New York, before Judge (now Justice) Sotomayor. *Silverman v. Player Relations Committee*, 880 F. Supp. 246 (S.D.N.Y. 1995), *aff'd*, 67 F.3d 1054 (2d Cir. 1995). The union agreed to return to the playing field and more than two years later signed a new agreement with the owners. See generally Abrams, *Legal Bases: Baseball and the Law* (Temple University Press, 1998).

BASEBALL AND LAW

The Origin of the Baseball Antitrust Exemption

Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Players

Samuel A. Alito Jr.

IT IS A PLEASURE to have the chance to speak to you this afternoon. It was back in December, if I recall correctly, when I finally decided on the topic of the talk that I am going to give this afternoon. It was a dark, cold day. I knew that the date of the speech was June 2[, 2008]. That brought to mind thoughts of spring. Thoughts of spring brought to mind thoughts of baseball. And thoughts of baseball brought to mind the case that I am going to talk about: *Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Players*,¹ a unanimous decision handed down by the Court on May 29, 1922—86 years ago last Thursday.

Of all the Court's antitrust cases, the *Federal Baseball* case may well be the most widely known, but what most people know about the case is not quite accurate. The case is generally known as having held that baseball has an "antitrust exemption." And critics of the decision—and they are legion—sometimes suggest that the decision was attributable to either (1) the justices' affection for baseball and a desire to bend the rules to promote its well-being² or (2) the justices' woeful ignorance about what professional baseball had become by 1922.³ In truth, as we shall see, Justice Holmes's unanimous opinion for the Court represented a fairly orthodox application of then-prevalent constitutional doctrine.

I.

To understand the Federal Baseball case, one must understand both the game and the relevant law as they were in 1922.

ANTITRUST

The law at issue in the Federal Baseball case was the Sherman Antitrust Act,⁴ which Congress enacted pursuant to its authority under Article I, Section 8 of the Constitution to regulate commerce among the several states. President Benjamin Harrison signed the Sherman Act into law on July 2, 1890. The bill had passed the House unanimously and passed the Senate with only one nay—and that from a Senator who "had taken no part in the debates on the bill."⁵

Despite its virtually unanimous congressional support, the Act's legislative history reveals competing

strains of thought on the purpose of the legislation.⁶ Some thought the Act should strike a blow at the cartelization of essential industries. Others wanted the Act to ensure a place in the national economy for smaller, higher-cost producers struggling to compete with more efficient, national concerns. The industrialization of the nineteenth century had unsettled the lives of different Americans in different ways, and the affected parties did not share the same vision for reform.

In order to accommodate these competing interests, the legislation was deliberately short on detail. Section 1 of the Act outlawed "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States."⁷ Section 2 made it unlawful to "monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations."⁸ As others have observed, this language is too broad to be taken at face value.⁹ After all, every contract restrains trade insofar as it imposes obligations on the parties to deal with each other on certain terms rather than with other parties on other terms. Yet it could not be the case that Congress intended to outlaw every contract and every business. The Clayton Act,¹⁰ enacted in 1914, clarified the law somewhat by declaring certain arrangements *per se* unlawful, but the scope of federal antitrust in most contexts remained murky. Congress had left it to the Third Branch to develop workable, rational principles for identifying conduct within and without the scope of the Act.

That process played out slowly, in part because the Court in the early period shared some of the ideological differences of the Act's framers. The Court's leading antitrust hawk was Justice John Marshall Harlan. An old-fashioned moralist, Harlan has been aptly described as a "southern gentleman"¹¹ and "the last of the tobacco-spitting judges."¹² His colleague David Brewer joked that Harlan retired each evening at eight "with one hand on the Constitution and the other on the Bible, and so [slept] the sweet sleep of justice and righteousness."¹³

Although Harlan came from a slave-owning family, he became the Court's leading defender of the rights of

ALITO: The Origin of the Baseball Antitrust Exemption

African Americans and is perhaps best known today for his impassioned dissents in such cases as *Plessy v. Ferguson* and the *Civil Rights Cases*. Harlan saw enforcement of the antitrust laws as having a moral dimension. It is noteworthy that in the great *Standard Oil* case of 1911,¹⁴ Harlan compared the Gilded Age trusts to antebellum slavemasters. He claimed that turn-of-the-century America risked being subjected to “another kind of slavery[:] . . . the slavery that would result from aggregations of capital in the hands of a few individuals and corporations controlling, for their own profit and advantage exclusively, the entire business of the country, including the production and sale of the necessities of life.”¹⁵

Justice Peckham largely shared that view. In the *Trans-Missouri Freight* case of 1897, he lamented that colossal business combinations were “driving out of business the small dealers and worthy men whose lives have been spent therein, and who might be unable to readjust themselves to their altered surroundings.”¹⁶ In Peckham’s view, “[m]ere reduction in the price of the commodity dealt in might be dearly paid for by the ruin of such a class and the absorption of control over one commodity by an all-powerful combination of capital.”¹⁷

Justice Holmes’s worldview could not have been more different. Holmes, of course, is almost a mythic figure, remembered as “all things to all commentators.”¹⁸ On the one hand, there is the Holmes of the play and movie, *The Magnificent Yankee*. On the other, there is the revisionist picture of Holmes painted by, among others, one of my old professors, Grant Gilmore, who wrote that “[t]he real Holmes was savage, harsh, and cruel, a bitter and lifelong pessimist who saw in the course of human life nothing but a continuing struggle in which the rich and powerful impose their will on the poor and weak.”¹⁹ According to Professor Albert Alschuler of the University of Chicago Law School, Holmes’s wartime experiences and the Social Darwinism of the time made him a moral skeptic and convinced him that life was a struggle in which might made right.²⁰ Consistent with this view, Holmes disdained the federal antitrust laws. In private correspondence, he referred to the Sherman Act as “a humbug based on economic ignorance and incompetence.”²¹

Holmes was appointed to the Court in 1902 by President Theodore Roosevelt, and the first major antitrust case in which he participated was the famous *Northern Securities* case of 1904.²² Two railroad barons, J. P. Morgan and James J. Hill, had created a new enterprise, the Northern Securities Company, to hold the



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

Under the leadership of James Gilmore, who was elected league president after the 1913 season, the Federal League expanded from six to eight teams, and in 1914 it began to openly compete with the American and National Leagues. But he also oversaw its abrupt dissolution in December 1915 and was a defendant in the suit filed by the Baltimore franchise.

stock of railroads that owned the track needed to provide service through Chicago to the West Coast. Critics saw this as a transparent attempt to monopolize the nation’s transcontinental railroad system, and shortly after taking office, President Theodore Roosevelt ordered his Attorney General to bring suit to break up the company. The government was successful in the lower court, and when the case reached this Court it was said to be the most closely watched case since *Dred Scott*.²³ Justice Harlan, writing for a 5–4 Court, held that the Sherman Act reached the merger because the merger had a direct effect on interstate commerce.

Holmes dissented. He found the case indistinguishable from one of the Court’s earlier antitrust cases, *United States v. E. C. Knight Co.*, which repelled a Sherman Act attack against the merger of companies that together refined approximately ninety-eight percent of the nation’s sugar.²⁴ According to Holmes, “[t]he point decided in [*E. C. Knight*] was that ‘the fact . . . that trade or commerce might be indirectly affected was not enough to entitle complainants to a decree.’”²⁵ Holmes also hinted at his feelings about antitrust, predicting that the Court’s interpretation of the Sherman Act “would make eternal the *bellum omnium contra omnes* and disintegrate society so far as it could into individual atoms.”²⁶ President Roosevelt, who, as noted, had appointed Holmes to the Court, was not

pleased by Holmes's position. He later famously claimed that Holmes had displayed "all the backbone of a banana."²⁷

BASEBALL

With this brief discussion of early twentieth-century antitrust jurisprudence, let me shift to baseball. According to legend, the first baseball game was played at Cooperstown, New York, in 1839,²⁸ two years before Justice Holmes was born. In fact, versions of the game date back much farther, but Organized Baseball did not emerge until the middle of the nineteenth century.²⁹ The first organized game is said to have been played in 1845 in Hoboken, New Jersey, at a place called the Elysian Fields.³⁰ The first game between college teams took place in 1859.³¹ The first professional team, the Cincinnati Red Stockings, made its debut in 1869.³² And in 1876, the National League of Professional Baseball Clubs, the ancestor of today's National League, was formed.

Thereafter, rival leagues periodically sprouted up. In the late nineteenth century, one of the great players of the day, Monte Ward, a law school graduate, started the Players' League, but aggressive tactics by the National League drove the Players' League out of business.³³ A more formidable rival, the American League, was established in 1901. For a time, the two leagues competed for players, but in 1903, they signed a truce known as the National Agreement. Pursuant to the National Agreement, the two leagues agreed to recognize each other as equals and to honor each other's contracts and observe the reserve clause, which tied a player to his team. The agreement put in place the essential structure of professional baseball that lasted for decades, and it was followed by the emergence of the game as the true national pastime.

Baseball soon became big business. In 1910, President Taft threw out the first pitch at National Park, the home of the Washington Senators. In the early 1920s, Babe Ruth came on the scene, shattered home-run records, made fans forget the Black Sox scandal of 1919, and became a larger-than-life celebrity. In England, George Bernard Shaw asked, "Who is this Babe Ruth, and what does she do?"³⁴ In 1921, the Yankees drew 1.2 million fans, and their cross-town rivals, the Giants, drew nearly a million.³⁵ More than a quarter million fans bought tickets to watch the two teams face off in the 1921 World Series.

II.

Like the American League before it, the Federal League got its start as an independent confederation of teams

with no pretense of competing with Major League Baseball. It was founded in 1913 with six teams representing the cities of Chicago, Cleveland, Indianapolis, Pittsburgh, St. Louis, and Covington, Kentucky (which served the Cincinnati market). The league's schedule was drawn up to avoid competition with major-league games, and the league's clubs took care not to recruit players under contract with the major leagues.³⁶ This business model proved modestly successful. Although we do not have attendance figures for the 1913 season, we know that they were strong enough to keep the league afloat despite a lackluster pennant race.³⁷

The league soon abandoned its humble designs with the election of a new league president, James Gilmore, following the 1913 season. Gilmore, one of the financial backers of the Chicago club, had made his fortune in the coal and heating business,³⁸ and he lent the league his vigorous executive leadership. Under Gilmore, the league expanded from six to eight teams, adding franchises in Baltimore and Buffalo. The league also replaced the Cleveland club with a team in Brooklyn, slowly shifting its center of gravity eastward. The league was now home to the Baltimore Terrapins (or "Baltfeds"), the Brooklyn TipTops (or "Brookfeds"), the Buffalo Blues (or "Buffeds"), the Chicago Whales (or "Chifeds"), the Kansas City Packers (or "Kanfeds"), the Pittsburgh Rebels (or "Pitfeds"), the St. Louis Terriers, and the Indianapolis Hoosiers (who were moved to Newark, New Jersey, and renamed the Peppers in 1915).

Like Gilmore, many of the league's backers came to baseball from the business world. The Brookfeds, for example, were controlled by baked-goods baron Robert B. Ward, while oil tycoon Harry Sinclair owned the Peppers. Other financial heavyweights backing the league included hotel magnate Edward Krause, brewer Otto Stiffel, and of course Gilmore himself. Their wherewithal gave the Federal League a sound financial footing. Although captains of industry dominated the Federal League, it is important to note that two of the league's teams, the Baltfeds and the Buffeds, were publicly owned. Both signed up when the league expanded to eight teams before the 1914 season. The Baltfeds were formed to bring Major League Baseball back to Baltimore after the Orioles left the city in 1903 to become the New York Yankees. Some 600 Baltimore citizens claimed ownership in the club, most with just a handful of shares.³⁹

The Buffeds likewise raised capital by running ads in local newspapers. One ad promised that the Buffed organization would be "one of the greatest financial successes in the history of baseball."⁴⁰ The ad went on:

ALITO: The Origin of the Baseball Antitrust Exemption

If you want to be identified with this new project—and it seems to us that every live, red-blooded man, woman, and child should have such an ambition—you must obey that impulse NOW. Visit or telephone our temporary office . . . and make your application.

DO IT NOW! TODAY IS THE LAST DAY!⁴¹

The local public's stake in the Baltimore and Buffalo franchises shaped the vision that those two clubs had for the Federal League—a vision that their sister clubs may not have shared. Notably, the antitrust suit that came before this Court in the *Federal Baseball* case was originally filed by the Baltimore franchise.

Armed with fresh capital and a full complement of eight teams, in 1914 Gilmore's Federal League declared itself a major league and went into open competition with the National and American Leagues for fans and talent. On the surface, the gambit seemed successful. The league's attendance in the 1914 and 1915 seasons rivaled attendance in the big leagues.⁴² Beneath the surface, however, the league's business model was cracking. League management had sought to win over big-league fans by poaching talent from big-league teams, but that talent did not come cheap—and often it would not come at all. Major-league player salaries, long depressed by the anticompetitive effects of the reserve clause and the ineligible lists, ballooned in the face of competition from the Federal League. But most of the big-league players had no intention of defecting. They just used the threat of defection as leverage to renegotiate their contracts with the major-league clubs. Players who did defect risked blacklisting; those willing to take that risk were generally in the twilights of their careers, with little to lose. As a result, the Federal League was forced to pay steep salaries to secure mostly aging talent. Coupled with the league's heavy capital expenditures (in only a couple of years, it erected eight new stadiums),⁴³ the salary wars put the Federal League in the hole. By the end of the 1915 season, the Baltimore Terrapins had lost \$65,000, while the Brooklyn Tip-Tops had accumulated losses of \$800,000, and the Buffalo and Kansas City franchises were insolvent.⁴⁴

The Federal League's end came swiftly. Its final days are vividly captured in the record and briefs filed with this Court in the *Federal Baseball* case. As late as November 1915, Gilmore, the president of the Federal League and a defendant in the suit, was writing member clubs about preparations for the 1916 season. In a letter dated November 21, 1915, Gilmore wrote Harry

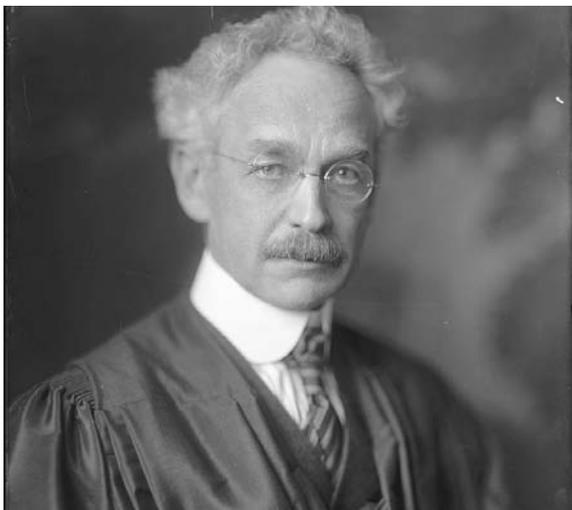
Goldman, the Baltimore club's secretary, asking him to prepare a rough budget for the Baltfeds' 1916 season.⁴⁵ Even as late as November 30, 1915, Gilmore was writing the club president, Carroll Rasin, to recommend a promising player for the club's 1916 roster.⁴⁶ Less than three weeks after that, on December 16, 1915, Gilmore sent another, more cryptic correspondence: an urgent telegram addressed to Rasin and Baltfed director (and future Hall of Famer) Ned Hanlon. It read simply: "You and Hanlon be at Biltmore in morning. Important."⁴⁷

Rasin, Hanlon, and the club's general counsel, Stuart Janney, took the midnight train to New York and, upon arrival the following morning, went straight to the Biltmore Hotel on Madison Avenue. Gilmore greeted them with the devastating news: The Federal League's 1916 season was "all off."⁴⁸ The league had sued for peace with Organized Baseball. As a result of the truce, several Federal League owners accepted buy-outs, a couple more were permitted to buy franchises in the major leagues, and three franchises—including the two that were publicly owned, Baltimore and Buffalo—were left to twist in the wind.

The details of the transaction were ironed out at meetings at the Biltmore and, later that evening, at the Waldorf-Astoria. The participants did posterity the good service of stenographically recording the Waldorf meeting, so we have a transcript of what transpired. Although the secondary literature has not reached consensus on why Baltimore opted out of the settlement, the Waldorf transcript implies that the club did not even have a seat at the table. That would make sense. The major leagues did not need to eliminate every franchise in order to hobble their competitor. Moreover, the Baltimore market did not appeal to Organized Baseball, which had already left the market once in 1903. Charles Comiskey, owner of the White Sox, expressed the view that Baltimore was "a minor league city, and not a hell of a good one at that."⁴⁹

To settle the Baltfeds' claims against the rest of the league, its sister clubs offered the franchise \$50,000 as its "equitable distribution" of the league's value, but that sum was a pittance compared to what other members of the league were getting. Robert Ward, owner of the Brooklyn Tip-Tops, received \$400,000 for giving up his team. The Baltfeds said no thanks. Following the holidays, they convened an emergency meeting of their shareholders in Baltimore, at which management received authority to take the organization's grievances to court. The Baltfeds sold their remaining assets to raise money for legal fees and then filed suit in federal court.

LIBRARY OF CONGRESS, LC-DIG-HEC-21069



Wendell P. Stafford, justice of the Supreme Court of the District of Columbia, instructed the jury that decided the case brought by the Baltfeds against Organized Baseball in 1917, pointing out the reserve system and the monopoly that it made possible. The jury decided for the Baltfeds, and Organized Baseball appealed. The case eventually was heard by the U.S. Supreme Court in 1922.

III.

It should be noted that the *Federal Baseball* case was not the first antitrust action to arise out of the Federal League imbroglio. Well before the Federal League was disbanded, it brought its own suit against Organized Baseball in the Northern District of Illinois. The complaint, filed after the league's 1914 season, named as defendants the National League, the American League, all sixteen club presidents, and the National Commission. The plaintiffs alleged that the defendants had monopolized and conspired to monopolize the business of giving baseball exhibitions, in violation of Section 2 of the Sherman Act. They also alleged that the National Agreement amounted to a contract in restraint of trade, in violation of Section 1 of the Act.

A number of commentators have speculated that the Federal League filed suit in the Northern District of Illinois because that was where District Judge (and future baseball commissioner) Kenesaw Mountain Landis held sway.⁵⁰ Judge Landis, a Roosevelt appointee, had already burnished his reputation as a trust-buster. In 1907, he had ordered the Standard Oil Company to pay a fine of \$29,240,000 for violations of the Elkins Act.⁵¹ At the time, this was the largest fine ever levied in American history.⁵²

Judge Landis was also a keen baseball fan, and he was apparently concerned that a decision adverse to the major leagues would undermine the game. During trial, he declared from the bench that "any blows

at . . . baseball would be regarded by this court as a blow to a national institution."⁵³ Judge Landis never ruled on the case before him. It languished on his docket until the end of 1915, when it was mooted by the peace agreement described above.

And that brings us to the *Federal Baseball* case. In September 1917, the Federal Baseball Club of Baltimore filed suit in the Supreme Court of the District of Columbia pursuant to Section 4 of the Clayton Act. The complaint named everyone in sight as a defendant: the National League of Professional Baseball Clubs and each of its eight member teams; the American League of Professional Baseball Clubs and each of its eight member teams; National League president (and former Pennsylvania governor) John K. Tener; American League president Bancroft Johnson; National Commission president August Herrmann; former league president James Gilmore; former Chifeds chief Charles Weeghman; and former Newark Peppers chief Harry Sinclair.

The Baltimore club accused the defendants of conspiring to destroy its franchise by monopolizing the baseball business and restraining trade therein. The case was tried to a jury before the Honorable Wendell P. Stafford. Judge Stafford instructed the jury that Organized Baseball was engaged in interstate trade and commerce and that, by means of the National Agreement and the reserve system, it had created a monopoly in that business.⁵⁴ He left it to the jury to determine whether the Baltimore club had suffered damages as a result of that monopoly. The jury found that it had and returned a verdict in the plaintiff's favor. It fixed the club's damages at \$80,000. Pursuant to Section 4(a) of the Clayton Act, that amount was trebled, and the club received a judgment of \$240,000 plus its counsel fees.

Organized Baseball appealed to the United States Court of Appeals for the District of Columbia Circuit, and the D.C. Circuit reversed. The court accepted that Sections 1 and 2 of the Sherman Act outlawed the monopoly or restraint of trade or commerce among the States.⁵⁵ It framed the issue on appeal as follows: "Did the giving of exhibitions of baseball, under the circumstances disclosed in the record, constitute trade or commerce within the meaning of the Sherman Act? If it did not, then the act does not apply, and the appellee has no right to invoke its provisions."⁵⁶

To answer that question, the court looked to the definitions of the terms "trade" or "commerce" in *Webster's Dictionary*. It also considered how those terms had been defined in this Court's precedent, including Chief Justice Marshall's famous opinion in *Gibbons v.*

ALITO: The Origin of the Baseball Antitrust Exemption

*Ogden*⁵⁷ and Chief Justice Fuller’s opinion in the *E. C. Knight* case mentioned earlier.⁵⁸ “Through these definitions,” the D.C. Circuit reasoned, “runs the idea that trade and commerce require the transfer of something, whether it be persons, commodities, or intelligence, from one place or person to another.”⁵⁹ Applying that standard, the court concluded that the Baltimore club was engaged in the purely intrastate business of baseball exhibitions:

The players, it is true, travel from place to place in interstate commerce, but they are not the game. Not until they come into contact with their opponents on the baseball field and the contest opens does the game come into existence. It is local in its beginning and in its end. Nothing is transferred in the process to those who patronize it.⁶⁰

The court thus distinguished between the baseball exhibitions and the interstate movement of players and equipment, which was merely incidental to the games themselves. Since the reserve system and ineligibility lists had at most an indirect effect on the movement of the players and their equipment across state lines, they did not offend the Sherman Act.⁶¹

Although the D.C. Circuit’s analysis may seem pat and formalistic in light of modern doctrine, it was in line with this Court’s analysis in the *E. C. Knight* case. It focused not on whether the defendant’s conduct violated the substantive prohibition of the antitrust laws, but on whether the conduct sufficiently partook of interstate commerce to be prohibited by Congress at all. The parties focused on the latter issue when the case came before this Court on writ of error. The Court having not yet imposed page limits, the plaintiffs in error filed a 200-page brief, 40 pages of which were devoted to addressing the scope of the “trade or commerce” reached by the Sherman Act. Fewer than twenty pages addressed the substantive antitrust question.

Moreover, the author of the D.C. Circuit’s opinion was no antitrust slouch. The opinion was written by Chief Justice Constantine J. Smyth. Prior to joining the Court, Smyth had spent four years as Special Assistant to the Attorney General, overseeing the government’s prosecution of antitrust cases.⁶²

Justice Holmes’s unanimous opinion for the Court found Smyth’s analysis persuasive. Like Smyth, Holmes focused his inquiry on whether the business of baseball was interstate “trade or commerce” within the meaning of the Sherman Act. He took the D.C. Circuit’s starting point as his own because, in his words, “[t]he decision of the Court of Appeals went to the root of the case

and if correct makes it unnecessary to consider other serious difficulties in the way of the plaintiff’s recovery.”⁶³ After briefly reviewing the facts, he declared that “the Court of Appeals was right.”⁶⁴

Holmes’s opinion in the *Federal Baseball* case was tightly written. His analysis of the question presented—a question to which the parties had devoted about 400 pages of briefing—consumed all of two paragraphs. He agreed with the D.C. Circuit’s characterization of the business in question as “giving exhibitions of base ball,” a business that to his eye was a “purely state affair[.]”⁶⁵ The fact that players and their accoutrements had to cross state lines to play did not transform the essential intrastate nature of the games themselves. “It is true,” Holmes wrote, “that in order to attain for these exhibitions the great popularity that they have achieved, competitions must be arranged between clubs from different cities and States. But the fact that in order to give the exhibitions the Leagues must induce free persons to cross state lines and must arrange and pay for their doing so is not enough to change the character of the business.”⁶⁶

In support of this reasoning, Justice Holmes relied on the Court’s analysis in *Hooper v. California*,⁶⁷ an 1895 decision in which the Court had held, over Justice Harlan’s dissent, that the sale of maritime insurance in California on behalf of an out-of-state carrier was not interstate commerce. “The business of insurance,” the Court had written in *Hooper*, “is not commerce. The contract of insurance is not an instrumentality of commerce. The making of such a contract is a mere incident of commercial intercourse.”⁶⁸ The *Hooper* case was the same precedent on which the D.C. Circuit had chiefly relied, and it was the only precedent that Holmes cited.

IV.

So what should we think about Holmes’s opinion in the *Federal Baseball* case? To many, the answer is “not much.” It has been pilloried pretty consistently in the legal literature since at least the 1940s. Commentators have called it: “[b]aseball’s most infamous opinion”;⁶⁹ a “clearly wrong” decision based on a “curious and narrow misreading of the antitrust laws and/or [an] utter misunderstanding of the nature of the business of baseball”;⁷⁰ a “remarkably myopic” decision, “almost willfully ignorant of the nature of [baseball]”;⁷¹ and a “simple and simplistic” decision that forms “a source of embarrassment for scholars of Holmes.”⁷² One commentator speculated that the Court simply “exempted baseball from the antitrust laws because it was the national pastime.”⁷³

The decision has also been criticized from the bench. Judge Jerome Frank of the Second Circuit derided it as an “impotent zombie [sic]” void of vitality in light of the Court’s more recent decisions.⁷⁴ Another jurist from that court, Judge Henry Friendly, declared that “*Federal Baseball* was not one of Mr. Justice Holmes’s happiest days.”⁷⁵

Members of this Court have not been much kinder. The Court has had at least two opportunities to overrule the *Federal Baseball* case, first in the 1953 case of *Toolson v. New York Yankees, Inc.*⁷⁶ and then again in the 1972 case of *Flood v. Kuhn*.⁷⁷ Both times it let the case stand, both times over withering dissents. Justice Harold Burton, dissenting in *Toolson*, criticized the *Federal Baseball* case’s understanding of professional baseball as a “purely state affair[]”:

In the light of organized baseball’s well-known and widely distributed capital investments used in conducting competitions between teams constantly traveling between states, its receipts and expenditures of large sums transmitted between states, its numerous purchases of materials in interstate commerce, the attendance at its local exhibitions of large audiences often traveling across state lines, its radio and television activities which expand its audiences beyond state lines, its sponsorship of interstate advertising, and its highly organized “farm system” of minor league baseball clubs, coupled with restrictive contracts and understandings between individuals and among clubs or leagues playing for profit throughout the United States, and even in Canada, Mexico and Cuba, it is a contradiction in terms to say that the defendants in the cases before us are not now engaged in interstate trade or commerce as those terms are used in the Constitution of the United States and in the Sherman Act.⁷⁸

Justice William Douglas was even more unsparing with his criticism in *Flood*. He characterized the *Federal Baseball* case as a “derelict in the stream of the law that we, its creator, should remove. Only a romantic view of a rather dismal business account over the last 50 years would keep that derelict in midstream.”⁷⁹ Justice Douglas added that although he had joined the Court’s opinion in *Toolson*, he had “lived to regret it.”⁸⁰

Even those who signed onto the Court’s opinions in *Toolson* and *Flood* regarded *Federal Baseball* as a relic. Justice Harry Blackmun, the author of the Court’s opinion in *Flood*, called the *Federal Baseball* case an “aberration,” albeit “an established one.”⁸¹ In one of

the other sports antitrust cases that came before the Court, Justice Tom Clark dismissed Holmes’s decision as “unrealistic, inconsistent, . . . illogical,” and “of dubious validity.”⁸² In short, as one recent historian put it, “[t]he critiques of [the] decision are legion and its fans few.”⁸³

Only very recently have some scholars given Holmes’s opinion less caustic reviews. For example, Jerald Duquette’s 1999 work on baseball and antitrust finds Justice Holmes’s reasoning “consistent with Progressive Era jurisprudence regarding the treatment of ‘incidental’ interstate transportation.”⁸⁴ Perhaps the best defense of Holmes was published by this Society: in “Antitrust and Baseball: Stealing Holmes,” Kevin McDonald argued that the *Federal Baseball* case was “scorned principally for things that were not in the opinion, but later added by *Toolson* and *Flood*.”⁸⁵

This assessment seems to me to be accurate. In 1922, the Court saw the Commerce Power as a limited power that did not extend to all “economic . . . activities that have a substantial effect on interstate commerce.”⁸⁶ This approach forced the Court to draw fine—some would say arbitrary—lines. Those who think poorly of this entire enterprise will obviously think poorly of the *Federal Baseball* case as well. But that decision is no less defensible than Holmes’s *Northern Securities*⁸⁷ dissent or the Court’s decisions in cases such as *E. C. Knight* and *Hooper*.

There is some irony in the outcome of the *Federal Baseball* case. In law, the view of baseball as a local affair prevailed. The argument that baseball was a big interstate business lost. But the real losers in the case were local people. The local interests were those connected with the Baltfeds, a ball club owned by some 600 citizens of Baltimore. The city felt slighted when the soon-to-be Yankees left town, and so the local political machinery stepped in and joined a renegade league to bring baseball back. For the people of Baltimore who backed the team, baseball, like politics, was local. ■

Notes

Justice Alito delivered this speech as the Supreme Court Historical Society’s 2008 Annual Lecture. It was published originally in the *Journal of Supreme Court History* 34, no. 2 (July 2009): 183–95. The Justice expresses his gratitude to James Hunter, one of his law clerks for the October 2007 term, and Linda Corbelli, one of the Court’s librarians, for their invaluable assistance.

1. 59 U.S. 200 (1922).
2. See *infra* note and accompanying text.
3. See *infra* notes and accompanying text.
4. An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies, ch. 647, 26 Stat. 209 (1890).
5. *The Legislative History of the Federal Antitrust Laws and Related Statutes* 25 n. 1.163 (Earl W. Kintner ed., 1978).
6. See generally Thomas D. Morgan, *Cases and Materials on Modern Antitrust Law and Its Origins*, 25–29 (2d ed.2001).

ALITO: The Origin of the Baseball Antitrust Exemption

7. Sherman Act § 1, 26 Stat. at 209.
8. *Id.* § 2, 26 Stat. at 209.
9. See, e.g., Alan J. Meese, "Price Theory, Competition, and the Rule of Reason," 2003 *U Ill. L. Rev.* 77, 83 and n. 28 (2003).
10. An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies, and for Other Purposes, ch. 323, 38 Stat. 730 (1914).
11. Jonathan Lurie, Book review, 38 *Am. J. Legal Hist.*, 378, 378 (1994).
12. Louis R. Cohen, "A Biography of the Second Justice Harlan," 91 *Mich. L. Rev.*, 1609, 1610 n. 4 (1993) (quoting Holmes's description of Harlan in Paul E. Freund et al., *Constitutional Law: Cases and Other Problems*, at xxxix–xl (1977)).
13. *Id.*
14. 221 U.S. 1 (1911).
15. *Id.* at 83 (Harlan, J., concurring in part and dissenting in part).
16. *United States v. Trans-Missouri Freight Ass'n*, 166 U.S. 290, 323 (1897).
17. *Id.*
18. G. Edward White, "Looking at Holmes in the Mirror," 4 *L. & Hist. Rev.* 439, 440 (1986), cited in Alfred S. Neely, "A Humbug Based on Economic Ignorance and Incompetence—Antitrust in the Eyes of Justice Holmes," 1993 *Utah L. Rev.*, 1, 6 n. 20.
19. Grant Gilmore, *The Ages of American Law*, 48–49 (1977).
20. Albert W. Alschuler, *Law Without Values: The Life, Work, and Legacy of Justice Holmes*, 58–59 (2000).
21. Letter from Oliver Wendell Holmes to Sir Frederick Pollock (Apr. 30, 1910), in 1 *Holmes–Pollock Letters: The Correspondence of Mr. Justice Holmes and Sir Frederick Pollock, 1874–1932*, at 163, 163 (Mark DeWolfe Howe ed., 1944).
22. *N. Sec. Co. v. United States*, 193 U.S. 197 (1904).
23. R. Blake Brown & Bruce A. Kimball, "When Holmes Borrowed from Langdell: The 'Ultra Legal' Formalism and Public Policy of *Northern Securities* (1904)," 45 *Am. J. Legal Hist.* 278, 287–88 (2001) (citing "The Hearing in the Northern Securities Case," 77 *The Nation*, 499, 499 (1903)).
24. 156 U.S. 1, 17–18 (1895).
25. 193 U.S. at 402 (Holmes, J., dissenting).
26. *Id.* at 411.
27. C. D. Bowen, *Yankee from Olympus*, 370 (1944), cited in Morgan, *supra* note, at 80 and n. 10.
28. Geoffrey C. Ward and Ken Burns, *Baseball: An Illustrated History*, 3 (2007).
29. See *id.* at 3–4.
30. *Id.* at 4–5.
31. *Id.* at 15.
32. *Id.* at 20.
33. See *id.* at 39–40.
34. *Id.* at 153.
35. Baseball Chronology.com, Major League Baseball Attendance for 1921, www.baseballchronology.com/Baseball/Years/1921/Attendance.asp (last visited 5 April 2009).
36. See Marc Okkonen, *The Federal League of 1914–1915: Baseball's Third Major League*, 3 (1989).
37. See *id.* at 5.
38. *Id.*
39. See *Br. for the Appellee* at 3, 5, *Nat'l League of Prof'l Baseball Clubs v. Fed. Baseball Club of Balt., Inc.*, 269 F. 681 (D.C. Cir. 1921) (No. 3368); *Br. on Behalf of Defendants in Error* at 42, *Fed. Baseball Club of Balt., Inc. v. Nat'l League of Prof'l Baseball Clubs*, 259 U.S. 200 (1922) (No. 204).
40. Buffalo Federal League Baseball Company, Inc., "Share in the Profits of the Game You Patronize" (undated 1914 newspaper advertisement), reprinted in Okkonen, *supra* note, at 11.
41. *Id.*
42. David S. Neft et al., *The Sports Encyclopedia: Baseball* 68 (5th ed. 1982).
43. Gary Hailey, "Anatomy of a Murder: The Federal League and the Courts," in *The National Pastime: A Review of Baseball History* 62, 63 (Merritt Clifton ed., 1985).
44. See *id.* at 66.
45. *Br. on Behalf of Plaintiff in Error* at 79, *Fed. Baseball Club of Balt.*, 259 U.S. 200 (citing Record at 325).
46. *Id.* (citing Record at 326).
47. *Id.* (quoting Record at 301).
48. *Id.*
49. *App. to Br. on Behalf of Defendants in Error* at 155, *Fed. Baseball Club of Balt.*, 259 U.S. 200.
50. See, e.g., J. Philip Calabrese, "The Racial Re-integration of Major League Baseball," 11 *Seton Hall J. Sport L.*, 1, 24 (2001); Jason M. Pollack, Note, "Take My Arbitrator, Please: Commissioner 'Best Interests' Disciplinary Authority in Professional Sports," 67 *Fordham L. Rev.*, 1645, 1650 (1999).
51. See *United States v. Standard Oil Co. of Ind.*, 155 F. 305, 321 (1907).
52. See Shayna M. Sigman, "The Jurisprudence of Judge Kenesaw Mountain Landis," 15 *Marq. Sports L. Rev.* 277, 295 (2005).
53. Benjamin G. Rader, *Baseball: A History of America's Game* 109 (1992), quoted in Jerold J. Duquette, *Regulating the National Pastime: Baseball and Antitrust* 17 (1999).
54. See G. Edward White, *Creating the National Pastime: Baseball Transforms Itself, 1903–1953*, at 71–72 (1996).
55. *Fed. Baseball Club of Balt.*, 269 F. at 684.
56. *Id.*
57. 9 Wheat. (22 U.S.) 1 (1824).
58. *United States v. E. C. Knight Co.*, 156 U.S. 1 (1895); see also *supra* text accompanying notes 24–25.
59. *Fed. Baseball Club of Balt.*, 269 F. at 684.
60. *Id.* at 684–85.
61. See *id.* at 687–88.
62. Jeffrey Brandon Morris, *Calmly to Poise the Scales of Justice: A History of the Courts of the District of Columbia Circuit* 71, 78 (2001).
63. *Fed. Baseball Club of Balt.*, 259 U.S. at 208.
64. *Id.*
65. *Id.*
66. *Id.* at 208–9.
67. 155 U.S. 648 (1895).
68. *Id.* at 655.
69. Eldon L. Ham, "Aside the Aside: The True Precedent of Baseball in Law," 13 *Marq. Sports L. Rev.* 213, 215 (2003).
70. Paul Finkelman, "Baseball and the Rule of Law Revisited," 25 *T. Jefferson L. Rev.* 17, 30 (2002).
71. White, *supra* note, at 70.
72. *Baseball and the American Legal Mind*, 75–76 (Spencer Weber Waller et al. eds., 1995).
73. Roger I. Abrams, "Blackmun's List," 6 *Va. Sports & Ent. L. J.*, 181, 183 (2006–7); see also Roger I. Abrams, *Legal Bases: Baseball and the Law*, 60 (1998).
74. *Gardella v. Chandler*, 172 F. 2d 402, 408–9 (2d Cir. 1949) (Frank, J., concurring).
75. *Salerno v. Am. League of Prof'l Baseball Clubs*, 429 F. 2d 1003, 1005 (2d Cir. 1970).
76. 346 U.S. 356 (1953) (*per curiam*).
77. 407 U.S. 258 (1972).
78. 346 U.S. at 357–58 (1953) (Burton, J., dissenting) (citation omitted).
79. 407 U.S. at 286 (Douglas, J., dissenting).
80. *Id.* at 286 n. 1.
81. *Id.* at 282 (Blackmun, J.).
82. *Radovich v. Nat'l Football League*, 352 U.S. 445, 450, 452 (1957).
83. *Baseball and the American Legal Mind*, *supra* note, at 78 n. 1.
84. Duquette, *supra* note, at 18.
85. Kevin McDonald, "Antitrust and Baseball: Stealing Holmes," 1998 *J. Sup. Ct. Hist.* 89, 122 (1998).
86. *Gonzales v. Raich*, 545 U.S. 1, 17 (2005) (citing *Perez v. United States*, 402 U.S. 146, 151 (1971) and *Wickard v. Filburn*, 317 U.S. 113, 128–29 (1942) (internal quotation marks omitted)).
87. *N. Sec. Co. v. United States*, 193 U.S. 197 (1904).

BASEBALL AND LAW

A Crank on the Court

The Passion of Justice William R. Day

Ross E. Davies

There is an understandable tendency to date the Supreme Court's involvement with baseball from 1922, when the Court decided *Federal Baseball Club of Baltimore v. National League of Professional Base Ball Clubs*—the original baseball antitrust-exemption case.¹ And there is a corresponding tendency to dwell on William Howard Taft—he was chief justice when *Federal Baseball* was decided²—when discussing early baseball fandom on the Court.³

The first tendency is not only understandable but also pretty much correct. The Court heard only a few baseball-related cases before 1922, and none was especially weighty from either a legal or a baseball perspective (although each was surely important to the people involved).⁴

The second tendency, while also understandable, is not so correct. Taft was a baseball fan, but he was neither the first nor the most fanatical on the Court that decided *Federal Baseball*, not by a long shot.

Justice Joseph McKenna was first, which is easy to prove: He was a fan,⁵ and he was the longest-serving member of the Court at the time *Federal Baseball* was decided.⁶

Justice William R. Day was the most fanatical, which is not so easy to prove: The sketches of Taft-the-fan and Day-the-fan that make up the bulk of this article are intended to give readers enough information to decide for themselves. After considering those sketches and the sources on which they are based, reasonable minds might differ about whether Day was the most intense of the many intense followers of baseball who have served on the Court—good cases might be made for several others, including Chief Justice Fred Vinson⁷ and Justices Potter Stewart,⁸ Harry Blackmun,⁹ John Paul Stevens,¹⁰ Samuel Alito,¹¹ and Sonia Sotomayor¹²—but none would dispute that he at least deserves a place among them.

Not surprisingly, there were plenty of other baseball fans on the Court during, and even before, the period covered by McKenna's (1898–1925), Day's (1903–22), and Taft's (1921–30) service.¹³ Chief Justice Edward D. White (1894–1921)¹⁴ and Justices John Marshall Harlan (1877–1911),¹⁵ Horace H. Lurton (1910–14),¹⁶ and Mahlon Pitney (1912–22),¹⁷ for example. And no doubt a thorough search would turn up many more.¹⁸ There is, however, nothing to suggest that up to 1922 any member of the Supreme Court was either as deeply interested in the game as Day was or *portrayed* as being as deeply interested in the game as Taft was. And so we turn to Taft and Day in their very different capacities as fans of the national pastime.

WILLIAM HOWARD TAFT, THE OFFICIAL-CAPACITY FAN

Attention to Taft over Day in the context of baseball is understandable both because Taft was, and remains, so much more noticeable than Day and because Taft



The U.S. Supreme Court, 1921–22. *Back row, left to right:* Justices Louis D. Brandeis, Mahlon Pitney, James McReynolds, and John H. Clarke. *Front row, left to right:* Justices William R. Day and Joseph McKenna, Chief Justice William Howard Taft, and Justices Oliver Wendell Holmes and Willis Van Devanter.

DAVIES: A Crank on the Court

was, in fact, a baseball fan of a sort, if not a particularly intense one.

Taft's superior noticeability began at a personal level, with the physical differences between the two men. (Compare the photos below of Taft on the left and Day on the right.) Taft was a very substantial human being, an attribute noted and caricatured in the news media (see, for example, the cover of *Judge* magazine on page 96)¹⁹ and even privately among his friends.²⁰ Day, in contrast, was sufficiently slender and frail—"of delicate physique," as his diplomatic colleague Justice Charles Evans Hughes put it²¹—to be the target of the occasional cartoon (see, for example, "midget" Day on page 97) or friendly barb as well.²² At a professional level, there were substantial differences too. Both men were important public figures from the 1890s onward, but Taft was by far the more prominent. In fact, Taft remains to this day a uniquely successful accumulator of high offices in the federal government. He is the only person ever to hold the highest executive office in the United States (he was president from 1909 to 1913) and the highest judicial office (he was chief justice from 1921 to 1930).²³ Day's highest executive and judicial positions were secretary of state (1898) and associate justice (1903–22)²⁴—all of which would be impressive when compared to anyone's career other than Taft's.²⁵ And so it should come as no

surprise that Taft, who loomed so much larger than Day in person and in office in their own time (and in history books ever since), should also be more easily noticed for his baseball associations.

Nevertheless, there is little evidence, other than occasional and unsubstantiated journalistic froth,²⁶ that Taft's interest in baseball was anything more than friendly, polite, and dutiful. By all appearances, he was sometimes involved with the game, but never in love with it. His four famous involvements with baseball reflect this fairly detached relationship.

First and most famously, on April 14, 1910, he became the first president of the United States to toss the ceremonial first pitch on opening day at a major-league game.²⁷ The moment came as a surprise to Taft (an odd reaction, in light of the fact that plans reportedly had been made for the same stunt at the opening of the 1909 season):²⁸

President Taft, provided with pass No. 1, today enjoyed the novel experience of seeing the Washington American league team win a ball game. . . .

Last year, the executive saw Washington play Boston, late in the season, but the local players got stage fright when the president arrived and threw away the game. Mr. Taft remarked then that he must be a "hoodoo" and remained away from the ball park the rest of the season. . . .

The president took an active part in the game. Just before play was started, Umpire "Billy" Evans made his way to the Taft box in the right wing of the grand stand, and presented the chief magistrate with a new ball.

President Is Surprised.

The president took the ball in his gloved hand as if he were at a loss what to do with it [seemingly unaware of a Washington baseball tradition in which an official of the District of Columbia government threw out the first pitch of the Senators' major league season²⁹] until Evans told him he was expected to throw it over the plate when he gave the signal. . . .

The president watched the players warm up, and a few minutes later shook hands with the managers, McAleer and Mack. When the bell rang for the beginning of the game, the president shifted uneasily in his seat, the umpire gave the signal, and Mr. Taft raised his arm.

LIBRARY OF CONGRESS, LC-USZ62-7757 DLC



William Howard Taft, substantial.

LIBRARY OF CONGRESS, LC-DIG-HEC-03708



William R. Day, lean.

Catcher Street stood at the home plate ready to receive the ball, but the president knew the pitcher was the man who usually began business operations with it, so he threw it straight to Pitcher Walter Johnson.³⁰

Taft would later reprise his performance,³¹ and his successor Woodrow Wilson would continue the practice.³² Now it is a national tradition, and a yearly opportunity to remind baseball fans that Taft was one of their kind.³³

Taft does not seem to have attended many non-opening-day games during his presidency. For the most part, news reports portray him putting in appearances at games connected with official functions—during a visit to Princeton to receive an honorary degree, for example³⁴—and therefore perhaps unavoidable.

This cool, official-capacity interest in baseball might be an accurate portrayal, or it might be the product of incomplete coverage by journalists (unlikely, when the subject is the president of the United States) or of imperfect research by the author (surely more likely). It is supported, however, by news coverage of Taft's relationship with baseball before and after the end of his term as president in March 1913. Compare the following hostile story in the *Montgomery Advertiser* about Taft's presidential enthusiasm for baseball with the subsequent friendly but nevertheless devastating report in the *Washington Post* about Taft's actual (and minimal) engagement with baseball post-presidency.

From the *Montgomery Advertiser* (March 3, 1913):

After March 4 [President-elect Woodrow Wilson's inauguration day], it's going to be the real thing to be numbered among the faithful as a baseball bug in the national capital. For the first time in the history of the United States, the three big men of the nation will be men who understand and enjoy the national pastime.

During the last administration, the lamented Vice-President Sherman was a real baseball fan, while Chief Justice White of the Supreme Court never missed a game when baseball did not interfere with his duties.

President Taft often visited the ball lot, but he did it only on state occasions when his managers

Taft's girth was the object of considerable comment and caricature and, as here, could be used to illustrate aspects of his political profile. As a boy, according to his semiofficial campaign biography in 1908, "he was a good play-fellow, a bit too slow moving for a first class captain of baseball, but a master swimmer, and pioneer of the 'plumping' game at marbles."



JUDGE 74, NO. 1463 (30 OCTOBER 1909). LIBRARY OF CONGRESS, LC-USZC4-6427

thought it good politics. He would toss the ball on the field at the opening game with a stage Taft smile. When he visited Chicago, he would generally visit the Cub[s'] ball park, for he it known that Charley [Taft's brother, Charles P. Taft] is largely interested in [that is, has a financial interest in] the Cubs and the presence of the President meant a big throng and additional dollars to brother Charles.

He attended another historic game in Pittsburgh, but that time again the Cubs were playing and as before it meant sesterces to the fond relative who has financed all of the Taft campaigns.³⁵

Anyone who has seen Mr. Taft in the grand stand readily recognized that he enjoyed a baseball game about as much as an undertaker does a christening. He would applaud at the right time, when nudged by some political and baseball adviser. He would stretch at the opening of the "lucky" seventh, again being nudged by the afore-mentioned baseball and political adviser, but he always had the appearance that he would lots rather be in juxtaposition to a big steak with all the trimmings, with a napkin tucked under his chin.³⁶

And, then, three months after Taft had left the White House, from the *Washington Post* (June 7, 1913):

DAVIES: A Crank on the Court

Mr. Taft confessed that he had not kept in as close touch with baseball “as a good fan should,” adding that he had been following the college teams more closely than the professionals. He thought, however, that he recalled that New York was at the head of one league, while Cincinnati was at the bottom. He inquired if “[Walter] Johnson was still pitching as good ball as ever,” and when told that he had lost a few games, remarked: “They must be getting on to him.”³⁷

In the years after he left the presidency, Taft did in fact watch some baseball at his alma mater and employer (he was a law professor at Yale from 1913 until he was appointed chief justice by President Warren G. Harding in 1921), but perhaps not much. News reports of his attendance at Yale games are few and far between.³⁸ His sporadic attendance at those games is reflected in a 1919 news story about a Yale commencement-day game against Harvard seen by Taft, “who found his two-seat-in-one location [recall Taft’s size] in the grandstand just where he left it years ago.”³⁹

However unkind Taft’s critics might have been about his reasons for visiting major-league parks while he was president, his own behavior once he left office lent those unkindnesses a ring of truth.

Second, Taft had a close family connection to baseball. His brother Charles P. Taft had financial interests in Major League Baseball,⁴⁰ including a variety of transactions, involving the Chicago Cubs during the early nineteenth century, that rose, at one point, to majority ownership of the club (from 1914 to 1916).⁴¹ Brother William became a Cubs fan of a sort.⁴² Wouldn’t you, if your brother owned a major-league team?

The combination of those first two involvements in baseball, accompanied perhaps by rumors of his support for the reserve clause,⁴³ probably led to Taft’s third involvement. In November 1918, owners of the American League and National League teams offered Taft the job of commissioner of Major League Baseball.⁴⁴ Taft’s response was not enthusiastic and, in the end, nothing came of the proposal.⁴⁵

Fourth and finally, there was the *Federal Baseball* case. As chief justice, Taft presided over oral argument of the case on April 19, 1922.⁴⁶ As the senior member of the Court in the majority, he was responsible for either writing the Court’s opinion himself or assigning it to another member of the majority.⁴⁷ He assigned it to Justice Oliver Wendell Holmes (a man with no interest in any sports, including baseball),⁴⁸ who wrote a telegraphic, dispassionate opinion. And again as chief justice, Taft presided over Holmes’s announce-

ment of the decision in the case on May 29, 1922.⁴⁹ That is all there is for Taft and *Federal Baseball*.

And that is pretty much all there is for Taft and baseball more generally.

In sum, once he turned the presidency and the associated opening day duties over to Woodrow Wilson in 1913, Taft’s involvement in baseball pretty much dried up, as did newspaper coverage associating him with the game—except for stories about his brother Charles’s baseball interests and his Court’s handling of the *Federal Baseball* case.⁵⁰ This was not because Taft had lost interest in sports or because the press had lost interest in Taft and his interest in sports. Rather, it was because Taft was devoting his leisure time to his one true sporting love: golf, a game he had picked up in middle age in the late nineteenth century.⁵¹ Taft played at every opportunity throughout his long years of public service and teaching and well into his old age, giving it up only when ordered to do so by his doctors.⁵² Even then he took at least one more ceremonial swing, long after he had given up baseball ceremonies.⁵³ Coverage of his golf outings and love of the sport continued to and through his dying day.⁵⁴

William Howard Taft had many redeeming qualities,⁵⁵ but commentators who include a wild and enduring enthusiasm for the national pastime among them are exaggerating (although he undoubtedly enjoyed a good baseball game).⁵⁶ He was indeed a true sports fanatic. Of golf. With respect to baseball, he was a casual and dutiful sometime fan, an occasionally friendly follower.

WILLIAM R. DAY, THE PERSONAL-CAPACITY FAN

After the stories of Taft and baseball, William R. Day’s engagement with baseball might at first glance seem trivial. He did not inaugurate the presidential first-pitch tradition, no one in his family ever owned a



In this detail from a cartoon in an undated newspaper clipping, Day’s “delicate physique” is the theme. Oliver Wendell Holmes called Day’s son, who was tall and brawny, “a block off the old chip.”

RECORDS OF THE SUPREME COURT, SCRAPBOOKS ON COURT'S HISTORY, 1880-1935, RG267, ENTRY 56, VOL. 9, NARA

major-league team, he was never offered the commissionership, and he neither presided over nor wrote an opinion in an important baseball case. Nevertheless, Day does deserve to be considered the First Fan of Baseball on the Supreme Court because he demonstrated his love for the game in both his professional and his personal life.

Compare, for example, Day's role in the creation of a baseball tradition with Taft's. As we have seen, Taft was president in April 1910, when others (just who those others were is uncertain)⁵⁷ arranged for the president to throw out the first pitch of the Major League Baseball season at Griffith Stadium.⁵⁸ Taft appeared and performed in public, to great acclaim and annual recollection down to the present.⁵⁹

In contrast, Day was a justice of the Supreme Court in October of that year, as the major-league season was drawing to a close. He was on the bench, hearing oral argument in Washington, D.C., while the World Series was being played. His response suggests a genuine interest in arranging his professional life to accommodate his love of baseball, even at some cost to his own dignity, and even the dignity of the Court:

Justice Day is perhaps the one real baseball fan on the bench. Justices White and McKenna go in for it mildly but Justice Day laments that to sit on the bench never seems so difficult as when there is a game in Washington. Ordinarily in such cases he contents himself with reading about the game when court has adjourned but when the world series was on, he could not resign himself with such patience. While the court was sitting he signalled a page every little while and whispered the direction in his ear: "Find out what the score is."

This became so frequent that the court officials decided to keep the Justice posted from inning to inning.⁶⁰

Similar reports appeared in the press during the 1912 World Series:

There was diversion in the session of the United States Supreme Court this afternoon. The Chief Justice and the Associate Justices were listening to argument in the case of the Government against the Bathtub Trust. But there was just a suspicion of uneasiness or distraction on the part of the court—something that suggested expectancy or keen interest in matters not connected with bathtubs or the Sherman anti-trust law.

The court page entered the judicial chamber with some show of excitement, and, hurrying to the bench, handed a slip of paper to Associate Justice Day. It was evident that the Bathtub Trust was forgotten by the Justices as the slip of paper was passed down the line. In groups of two or three the distinguished jurists of the highest court in the land leaned over the paper and read eagerly what was written on it.

This diversion happened at intervals throughout the session of the court. Then it came out that for the first time in its history the Supreme Bench was getting bulletins of a baseball game. [Obviously, the *Times* reporter had not been in the courtroom in 1910.] Justice Day, the foremost fan on the court, made arrangements for the bulletin service. The progress of the final match in the world's series was made known to the court inning by inning.⁶¹

Interviewed many years later for a biography of Day, his son Rufus told a similar story.⁶²

Later coverage of these episodes, and their steady identification of Day as the instigator and organizer, suggests that at least during Day's tenure on the Court such updates became a tradition and even that reporters themselves were sometimes the sources of Day's on-the-bench reports.⁶³ So it should come as no surprise that, when Day announced his retirement in 1922, newspaper coverage included descriptions of his enthusiasm for baseball and highlighted his World Series tradition. For example:

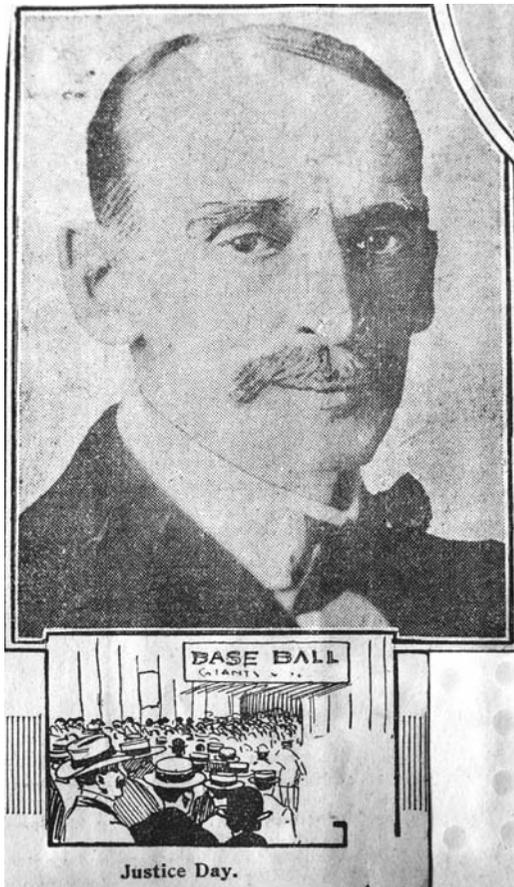
A baseball fan of the first calibre[,] Justice Day has always found time to follow the game. He knows the big league players by name, keeping up to the minute on their batting averages, and while he never has permitted his fondness for the play to interfere with his judicial duties he frequently has hurried from the court to the ball park as soon as he could lay aside his robe, and during the world series has always kept advised upon the bench of the progress of the game, play by play.⁶⁴

After Day's death in 1923, news coverage and obituaries featured similar reports. For example:

Justice Day had one hobby. It was baseball. Few games did he miss when business would permit him to attend. Even on the bench, it was his custom to receive the reports of the baseball games

DAVIES: A Crank on the Court

PHOTO AND CARTOON, NEW YORK TIMES, 15 MAY 1910



Day developed a reputation as the Supreme Court's most avid and knowledgeable baseball fan. During the World Series, he would arrange to have a page provide him with inning-by-inning updates, and his fellow justices were eager to read them as he passed the slips of paper to them while hearing oral arguments.

by innings during most serious deliberations. It is said that the justice would have a clerk learn the progress of the game and write it on a slip of paper. This a page would lay on the desk. After Justice Day had glanced at it, he would pass it on to his colleagues.⁶⁵

And:

Justice Day was a dyed-in-the-wool baseball fan. . . . During the world series he always arranged to keep advised of the contests, having telegraphic reports play by play passed to him upon the bench. These he read with keen interest and as he passed them along the bench to his colleagues he would add some criticism upon the progress of the contest.⁶⁶

After Day's death, the tradition of on-the-bench World Series updates seems to have lapsed.⁶⁷ At least there are no more news stories about it, other than an occa-

sional reference to its existence in the past.⁶⁸ Which invites the obvious conclusion: The establishment and lifespan of this tradition were purely a product of Day's love for the game. It was created by him, led by him, and expired with him.⁶⁹ The same cannot be said of Taft and the first-pitch tradition.

What little we know of Day's work as a justice off the bench also suggests a fan's preoccupation with the game. For example, among his papers at the Library of Congress is a 1912 letter to his colleague Charles Evans Hughes, who joined the Court in 1910. Apparently, Hughes forwarded to Day an application for some sort of writ (in this context, a request by someone for an order to be issued by a justice of the Supreme Court) that had initially been submitted to Hughes. Lacking both Hughes's cover letter and the application itself, we cannot know what it was all about, but we can be pretty sure that it did not involve the infield-fly rule. Day's reply to Hughes does invoke the rule nonetheless:

March 19, 1912

My dear Judge:

My mail last evening brought to me the reference of the enclosed communication.

As the application is to you as "Ex-Governor," I must respectfully decline to grant the writ. My own opinion is that the writer is a victim of too close study of the somewhat complicated rules and procedure concerning infield flies.

If you think I have not properly acted on this application there is precedent for referring it to the court for action by a *full* bench.

Faithfully yours,
William R. Day⁷⁰

The Baseball "Crank." When Day joined the Supreme Court in 1903, he was already known as an avid baseball fan.⁷¹ Even in his early years on the Court, reports of his appearances at games reflected a journalistic awareness of his routine attendance, which in turn reflected an interest on Day's part that extended beyond opening days, World Series, and other especially spectacular games. For example:

Mr. Justice Day, of the United States Supreme Court, was in his accustomed seat back of the home team's bench and rooted with his usual vigor for the Nationals. He was accompanied by several ladies.⁷²

And:

No one enjoys baseball more than Mr. Justice Day, of the Supreme Court. He is a regular spectator and yesterday induced Mr. Justice Harlan to lay aside his golf sticks and attend the game.

"Is that gentleman in blue who says 'tuh' the chief justice of the game?" asked Mr. Harlan of his colleague.

"Yes," responded Mr. Day, "and if any of those players attempt to argue with him he will point his finger toward the bench and out of the game he will go."⁷³

And:

Justice Day is probably the best posted on the national game of any of his associates on the Supreme bench, for he has played it [a likely inaccuracy discussed below], and never misses an exhibition when he is in the city, and a ball game is advertised.⁷⁴

As the years passed, reporters picked up on another, larger pattern in Day's baseball-viewing habits: "Justice Day will remain in Washington, a devotee of baseball, until mid-summer when he will go to Mackinac [in northern Michigan, where he rented a cottage every year for the Day family's summer vacation]."⁷⁵ Of course, Day wasn't staying in Washington just for the baseball and the fine weather. He had work to do.⁷⁶ But that didn't keep him away from the ballparks during the early summer months, as the datelines on many Day-related baseball stories show.

The news coverage of Day's attendance at games over time also reflected journalists' awareness of Day's deep enthusiasm for and knowledge of the game. Referring to him as "The Court's Real Baseball 'Crank,'" the *New York Times* described Day's baseball persona in 1910:

Mr. Justice Day, President Roosevelt's first selection for the Supreme Court, is the baseball "fan" par excellence of the court. While Justices White and McKenna never miss a game if they can help it, Justice Day is a real baseball "crank." He knows as much about the rules of the game as he does about the rules of the Supreme Court itself, and he knows practically all the players in the big league clubs, not only by name and reputation, but by sight. When the schedule of the

Supreme Court comes into conflict with the schedule of the Washington ball team, Justice Day attends the performance of the former under dire protest. If he can possibly arrange to get away, he will shed his judicial robes without further ado, and hie himself away to a grand stand seat, where he can pass judgment on the chasers of the baseball, rather than on the merits of arguments of lawyers engaged in shadowing the Constitution.⁷⁸

And as the *Portland Oregonian* reported in 1907, "He is 58, slight, also retiring and silent unless he is witnessing a baseball game."⁷⁹

Evidence relating to the place of baseball in Day's early years and in his family life is truly sparse. What little there is points to an interest in baseball that dated back to his youth and that in adulthood he shared it with his sons. His files at the Library of Congress contain correspondence in which he "admit[s] having been interested in baseball during my college life,—an interest which I still retain,"⁸⁰ and a letter from his son Luther reveals an ongoing interest in the performance of the baseball team in Day's hometown of Canton, Ohio.⁸¹ A *Washington Post* story places Day at a Georgetown-Princeton game with his son Rufus.⁸²

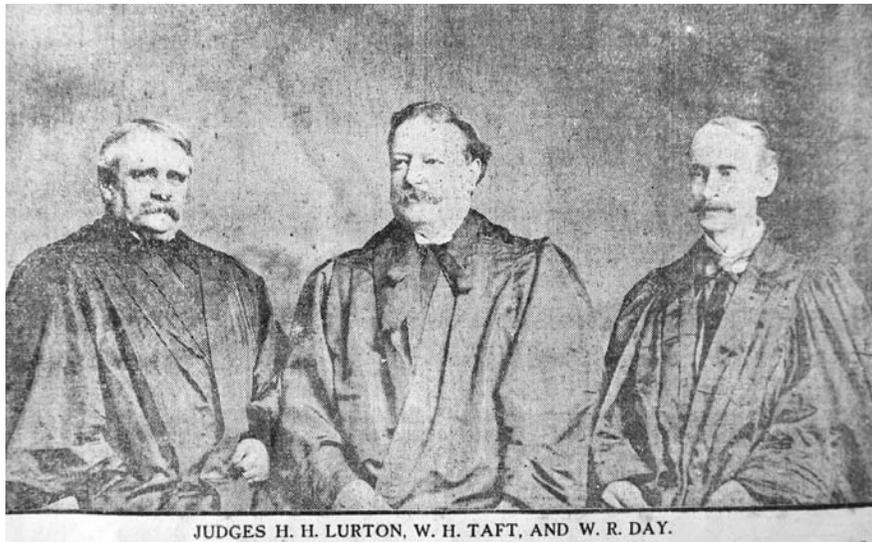
Strangely, Day's long, passionate, and public love affair with baseball was not in his own time and is not now commonly associated with the outcome of the *Federal Baseball* case. No one singles out Day the passionate baseball enthusiast, accusing him of voting for the antitrust exemption because he was biased in favor of the baseball establishment in all its traditional, collusive, reserve-clause glory. This is in notable contrast to the abuse heaped on Taft and Holmes for *Federal Baseball* (recall that Holmes wrote the opinion for the Court),⁸³ and, more recently, on Justice Harry A. Blackmun,⁸⁴ the author of the opinion for the Court in *Flood v. Kuhn*—the most recent decision upholding the baseball antitrust exemption.⁸⁵ Exploration of the reasons for this odd neglect of Day (treatment surely gratifying to him, wherever he is) are beyond the scope of this article. But one possibility comes easily to mind: Day was the only one of the four whose involvement in baseball was limited to fanatically keeping up with the players and the games. He was just a fan.

POSTSCRIPT: PLAYERS?

One aspect of baseball does seem to have been beyond the reach or interest of both Taft and Day: competitive play. It sometimes happens, however, that celebrities in the full flower of their fame receive credit they do

DAVIES: A Crank on the Court

Judges Horace H. Lurton, William Howard Taft, and William R. Day, all of them noted baseball fans of varying degrees, served together on the Sixth Circuit Court of Appeals in the 1890s and would later serve at one time or another on the U.S. Supreme Court.



WASHINGTON HERALD, 30 DECEMBER 1909

JUDGES H. H. LURTON, W. H. TAFT, AND W. R. DAY.

not deserve for youthful accomplishments that never happened. This may be the case with Taft and Day and baseball.

Taft Did Not Play Third for Yale. Numerous modern reports—most citing Andrew Zimbalist’s book *Baseball and Billions: A Probing Look Inside the Big Business of Our National Pastime* (1992)—place Taft at third base on the Yale baseball team during his college years in the mid-1870s,⁸⁶ usually in the context of some sort of critique of the *Federal Baseball* case and Taft’s position as head of the court that decided it. Zimbalist writes of *Federal Baseball* that it was decided by “a court headed by former President William Howard Taft, himself an erstwhile third baseman at Yale University.”⁸⁷ Zimbalist provides a footnote to *The Imperfect Diamond: A History of Baseball’s Labor Wars* (1980), by Lee Lowenfish and Tony Lupien. Unfortunately, Lowenfish and Lupien provide no support for their claim. Zimbalist makes the same claim in his 1994 article “Baseball Economics and Antitrust Immunity,” this time with a footnote to the Supreme Court’s *Federal Baseball* opinion, which says nothing at all about Taft or Yale baseball.⁸⁸ In other words, neither Lowenfish and Lupien nor Zimbalist provide evidence to support the claim that Taft played third at Yale. Neither do authors who reproduce the story, with or without credit to Lowenfish and Lupien or to Zimbalist.⁸⁹ Apprised of the error, Lowenfish has corrected it in the third edition of *The Imperfect Diamond* (Nebraska, 2010).

Concrete proof of participation in interscholastic athletics in the nineteenth century can be hard to come by, except for those stars whose names appeared in newspapers at the time, making it practically impossible to prove a negative. But in Taft’s case the very

extremity of his celebrity in adulthood generated some pretty convincing evidence that he was never on the Yale baseball team.

When Taft ran for president in 1908, he was the subject of puffy presidential-campaign biographies. These are just the sort of publication that could be expected to make the most of every accomplishment or shred of evidence that might support a maximally inflated account of an accomplishment in the candidate’s life. Yet here is what the semiofficial *William Howard Taft: The Man of the Hour* (it featured an introductory chapter by Taft’s sponsor, President Theodore Roosevelt) said of Taft the boy:

He was a good play-fellow, a bit too slow moving for a first class captain of baseball, but a master swimmer, and pioneer of the ‘plumping’ game at marbles.⁹⁰

And when he reached Yale in 1874:

The photographs taken of him then show a clean-cut youngster, solid but not fat, with a figure which showed power in every line. He was hailed by his classmates as a certain champion in athletics, and the football enthusiasts received him as a tower of strength for the team. But Taft did not go in for athletics. He was in college for the sake of an education, and he meant to make the utmost of his opportunity. . . . He joined in the play of his fellows, worked in the gymnasium, wrestled, and played football a little. But his athletics were for exercise and recreation, not a means of winning honor or reputation.⁹¹

FROM "NOTES EXCHANGED BETWEEN JUSTICES DURING COURT PROCEEDINGS," PAPERS OF HARRY A. BLACKMUN, LIBRARY OF CONGRESS, MANUSCRIPT DIVISION, BOX 116.

Supreme Court of the United States
 Memorandum
 -----, 19.....

After 1/2:
 Rose grounded to 2nd.
 Morgan walked.
 Driessen singled and
 Morgan took 3rd.
 Driessen took 2nd on WP.
 Perce struck out swinging.
 Bench walked intentionally.
 Griffey flied to center,
 w/ bases loaded.

NO SCORE

Supreme Court of the United States
 Memorandum
 -----, 19.....

V.P. AGNEW JUST
 RESIGNED !!

METS 2
 REDS 0

10-10-73

The tradition, established by Day, of on-the-bench game updates died with him, but it was revived, briefly, half a century later. In October 1973, Justice Potter Stewart, a Reds fan, assigned his clerks the task of sending a page in with an update every half inning during the NLCS between the Reds and Mets. The first note is thought to be in the handwriting of Fred Davis, the second and third in the handwriting of Andy Purvis, both of them Stewart clerks. The date on the second note is in Harry Blackmun's hand. Stewart and Potter passed each other baseball notes for several years after that.

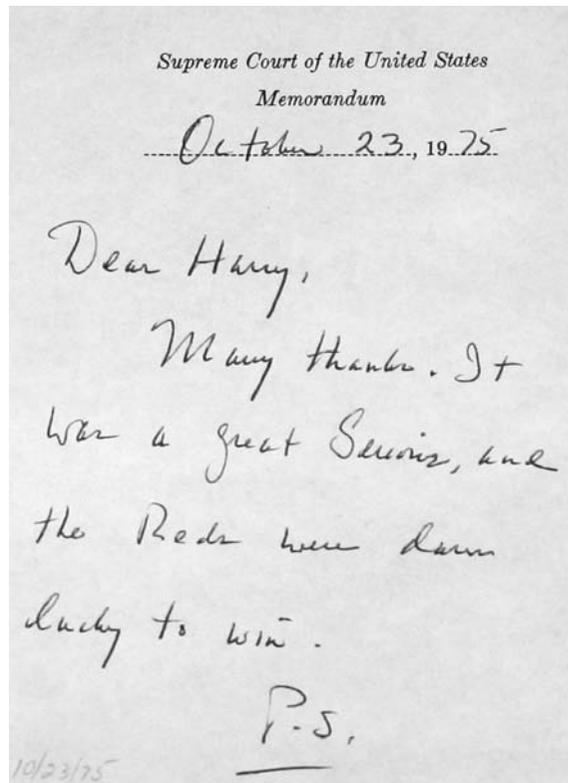
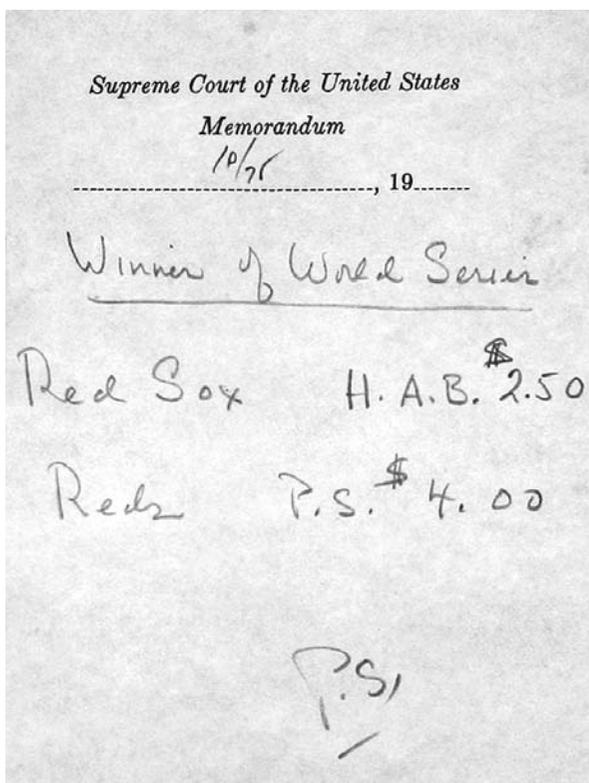
Supreme Court of the United States
 Memorandum
 -----, 19.....

1 1/2 INNINGS GONE

METS 2
 REDS 0

NBC NEWS IS SOURCE OF
 AGNEW STORY

DAVIES: A Crank on the Court



FROM "NOTES EXCHANGED BETWEEN JUSTICES DURING COURT PROCEEDINGS," PAPERS OF HARRY A. BLACKMUN, LIBRARY OF CONGRESS, MANUSCRIPT DIVISION, BOX 116.

For several years in the mid-1970s, Justices Potter Stewart and Harry Blackmun exchanged baseball notes during Supreme Court proceedings. The note to the left records details of their wager on the 1975 World Series. Stewart won. To the right is a gracious word he scrawled to Blackmun.

Similarly, here is what Robert Lee Dunn writes in his *William Howard Taft: American* about Taft's career in college sports:

He showed prowess in various individual contests, especially in wrestling. He did not join any of the 'Varsity teams, though once he was anchor in a tug of war. His father had sent him to Yale to study and the young man sought to win honors in scholarship as Judge Taft [his father] has done in the same college before him.⁹²

Hardly ringing claims, or even feeble ones, of baseball prowess. Taft, it seems, was a big nerd, and proud of it. And to the extent he was even willing to play sports, baseball was not a candidate.

Day Probably Did Not Play for Michigan. Claims about Day and a collegiate baseball career are neither as recent nor as specific as they are for Taft. Still, they too exist, and they too are unaccompanied by supporting evidence.

In the years following Day's appointment to the Supreme Court, much was made of his intense interest in baseball.⁹³ For some newspapers at the time, this extended to reports that Day "was educated at Ann

Arbor [the University of Michigan], where he was a member of the baseball team and noted as a sprinter."⁹⁴ Alas, those reports did not quote anyone or cite any sources for Day's collegiate athleticism.

More plausible is the *New York Times's* report on Day's death in 1923:

Justice Day's health was never good. . . . He was of slight physique, and never took part in any games or sports. But he made up for this lack by his undisguised pleasure in watching big league baseball games.⁹⁵

His biographer, who enjoyed the cooperation of Day's family, friends, and former colleagues on the Court,⁹⁶ writes, "Of his student days at Ann Arbor little has been recorded. Incidents, however, have been reported. . . ." Unfortunately, none of those incidents appears to have had anything to do with sports.⁹⁷

Evidence relating to the place of baseball in Day's early years amounts to very nearly nothing. The only clue I have found is the 1912 letter, in his files at the Library of Congress, in which he "admit[s] having been interested in baseball during my college life,— an interest which I still retain."⁹⁸ Maybe there is some

better evidence, somewhere else, that Day played for Michigan.

POST-POSTSCRIPT: TRADITIONAL RENEWAL

The baseball tradition with which Taft is associated in his official capacity as president—the first pitch—remains vibrant.⁹⁹ The tradition with which Day ought to be associated in his personal capacity as a baseball fan who happened to work at the Supreme Court—the on-the-bench update—died with him.¹⁰⁰ But Day's tradition has been revived, at least once, briefly.

Justice Potter Stewart, who served on the Supreme Court from 1958 to 1981, was a baseball fan, and a Cincinnati Reds fan in particular.¹⁰¹ The Reds and the New York Mets played for the National League championship in early October 1973. In his article "Court of Dreams" (2005), Skip Card quotes Terry Perris, one of Stewart's clerks, and an assignment Stewart gave his clerks that October:

He had asked us to keep tabs of the score of the Reds–Mets game while he was on the bench and we were at our desks doing our work, and to send into him via one of the pages half-inning reports of the score of the game. We did that throughout the playoffs while the Court was in session.¹⁰²

Most of those half-inning reports are probably either lost to history or locked up in Stewart's sealed papers at Yale University.¹⁰³ But a series of three notes from the Reds–Mets game of October 10, apparently passed along the bench from Stewart to his colleague Justice Harry Blackmun, are preserved in Blackmun's files (see opposite page).

According to Card, the first note is in the handwriting of Fred Davis, another Stewart clerk, and the second and third notes are in the handwriting of Andy Purvis, yet another Stewart clerk. The date on the second note is in Blackmun's handwriting.¹⁰⁴

Stewart and Blackmun passed each other notes about baseball for several years after that,¹⁰⁵ including at least one exchange in October 1975 that appears to record a World Series wager and mark its payout (see above).

Who knows what else might turn up when Stewart's papers are eventually unsealed?

One thing should be obvious, though: Taft and Day are long gone, but baseball fandom on the Supreme Court lives on. ■

Notes

1. 259 U.S. 200 (1922); see, e.g., Paul Finkelman, "Baseball and the Rule of Law Revisited," 25 *T. Jefferson L. Rev.* 17, 29 (2002); Thomas R. Hurst and Jeffrey M. McFarland, "The Effect of Repeal of the Baseball Antitrust Exemption on Franchise Relocations," 8 *DePaul–LCA J. Art & Ent. L.* 263, 267 (1998); cf. Robert M. Jarvis and Phyllis Coleman, "Early Baseball Law," 45 *Am. J. Legal Hist.*, 117, 117 n. 2 (2001).
2. 259 U.S. iii.
3. See, e.g., Eldon L. Ham, *The Immaculate Deception: How the Holy Grail of Protectionism Led to the Great Steroid Era*, 19 *Marq. Sports L. Rev.*, 209, 217 (2008); Larry C. Smith, "Beyond Peanuts and Cracker Jack: The Implications of Lifting Baseball's Antitrust Exemption," 67 *U. Colo. L. Rev.*, 113, 117 (1996); Willis D. Gradison Jr., "Remarks for Dedication and Public Opening of the William Howard Taft Birthplace," 134 *Cong. Rec.* E3016-04 (20 September 1988).
4. See, e.g., *Mahn v. Harwood*, 112 U.S. 354 (1884); *Stuart v. Hayden*, 169 U.S. 1 (1898); *Davis v. Coblens*, 174 U.S. 719 (1899); *McNichols v. Pease*, 207 U.S. 100, 107 (1907); see also Appellant's Reply Brief at 5, *Weber v. Freed*, 239 U.S. 325 (1915); *Slocum v. Brush*, 140 U.S. 698 (1891); "May Now Pay the Penalty," *New York Times*, 12 May 1891, 3; *Keith v. Kellam*, 35 F. 243, 244 (C.C.D. Kan. 1888) (Brewer, J.), rev'd, 144 U.S. 568 (1892); *Commonwealth v. Watson*, 154 Mass. 135 (1891) (Holmes, J.); *Schmalstig v. Taft*, 10 Ohio App. 285 (Ohio App. 1. Dist. 1919).
5. "Second Game Cut Short," *Washington Post*, 8 October 1905, S1; "Capital Is Thrilled as Wires Flash 'Pennant Is Won,'" *Washington Post*, 30 September 1924, 1, 4.
6. Compare 259 U.S. iii, with Members of the Supreme Court of the United States, www.supremecourtus.gov/about/members.pdf (accessed 23 November 2009).
7. Francis A. Allen and Neil Walsh Allen, *A Sketch of Chief Justice Fred M. Vinson*, 5, 8–11, 22, 97 (2005).
8. Skip Card, "Court of Dreams," *N.Y. State Bar J.* 11 (March–April 2005).
9. *Flood v. Kuhn*, 407 U.S. 258 (1972); The Justice Harry A. Blackmun Oral History Project 18, 184–85 (Supreme Court Historical Society and Federal Judicial Center, 1994–95).
10. Tony Mauro, Major Milestone, *Legal Times*, 2 May 2005, 4.
11. Ben Walker, "Supreme Court Justice Trades Robe for Jersey," [*Mobile, Ala.*] *Press-Register*, 11 March 2007, B6.
12. Joan Biskupic, "Sotomayor to Make Her Pitch for Yanks," *USA Today*, 23 September 2009, 4C.
13. Members of the Supreme Court of the United States, www.supremecourtus.gov/about/members.pdf (accessed 23 November 2009).
14. Justice White's Career, *Washington Post*, 12 December 1910, 2.
15. "Treaty Story a Myth," *Chicago Daily Tribune*, 6 June 1897, 4. Harlan may be the only sitting justice to have umpired a baseball game. See "Cathedral Has Foes," *Washington Post*, 21 May 1905, 11.
16. "Wild Scenes by High Officials When Game Is Won in Grand Rally," *Philadelphia Inquirer*, 19 June 1912, 12.
17. "Wilson in Princeton Festivity," *Trenton [N.J.] Evening Times*, 13 June 1914, 1; "Pitney A Baseball Star," [*Pawtucket, R.I.*] *Evening Times*, 22 February 1912, 7.
18. Just look at what's been done with presidents. See William B. Mead and Paul Dickson, *Baseball: The Presidents' Game* (1993).
19. See, e.g., "Our Presidents as Cartoon Subjects," *Chicago Daily Tribune*, 17 August 1923, 1; "A Wilson Dollar," *Wall Street Journal*, 30 December 1918, 2; La Marquise de Fontenoy, *Chicago Daily Tribune*, 31 March 1916, 6; see also Robert B. Highsaw, *Edward Douglass White: Defender of the Conservative Faith*, 59 (1981).
20. See, e.g., letter from John Marshall Harlan to William R. Day, 22 September 1906, in Papers of William R. Day, Library of Congress, Manuscript Division, box 21 ("If Taft would sit down on the Cuban insurrectionary leaders, all trouble would cease, and it would not be necessary to invoke the authority of the Territorial Clause"); Herbert S. Duffy, *William Howard Taft*, 162 (1930).

DAVIES: A Crank on the Court

21. David J. Danelski and Joseph H. Tulchin, eds., *The Autobiographical Notes of Charles Evans Hughes*, 170 (1973).
22. See, e.g., "Justice Day's Giant Son," *Atlanta Constitution*, 5 December 1915, D8 (Justice Oliver Wendell Holmes describing Day's tall and husky son William Jr. as "a block off the old chip").
23. David T. Pride, "William Howard Taft," in *The Supreme Court Justices: Illustrated Biographies, 1789–1993*, ed. Clare Cushman, 341–45 (1993).
24. Kathleen Shurtleff, "William R. Day," in *The Supreme Court Justices: Illustrated Biographies, 1789–1993*, ed. Clare Cushman, 291–95 (1993).
25. Both men held other high offices, and they did have one position in common: Both served on the United States Court of Appeals for the Sixth Circuit, Taft from 1892 to 1900, and Day from 1899 to 1903. See "Taft, William Howard," and "Day, William Rufus," in Biographical Directory of Federal Judges, www.fjc.gov/public/home.nsf/hisj (Federal Judicial Center, accessed 21 November 2009).
26. See, e.g., "Capital Is Thrilled as Wires Flash 'Pennant Is Won,'" *Washington Post*, 30 September 1924, 1, 4.
27. Taft Pitches First Ball, *Chicago Daily Tribune*, 15 April 1910, 13; see also Ronald G. Liebman, "Walter Johnson's Opening Day Heroics," 10 *The Baseball Research Journal*, 53 (1981); William B. Mead and Paul Dickson, *Baseball: The Presidents' Game*, 24 (1993).
28. "Taft to Toss Ball," *Boston Daily Globe*, 12 April 1909, 5.
29. "Taft Tosses Ball," *Washington Post*, 15 April 1910, 2; Steve Wulf, "Ball One: On Opening Day in Baltimore, Bill Clinton Threw Out the First Pitch, Continuing a Grand American Tradition That Began with Presidents and Has Gone On to Include Actors, Animals and Cartoon Characters," *Sports Illustrated*, 12 April 1993, 84; Harvey W. Crew et al., *Centennial History of the City of Washington, D.C.*, 159 (1892).
30. Taft Pitches First Ball, *Chicago Daily Tribune*, 15 April 1910, 13; see also www.retrosheet.org/boxesetc/1910/NWS101910.htm.
31. "President Taft Out with Fans," *Chicago Daily Tribune*, 13 April 1911, 21; "Ball Pass for Wilson," *Los Angeles Times*, 11 March 1913, 11.
32. "Wilson and Cabinet Attend Ball Game," *New York Times*, 11 April 1913, 1; see also John Milton Cooper Jr., *Woodrow Wilson: A Biography*, 258 (2009); William B. Mead and Paul Dickson, *Baseball: The Presidents' Game*, 24 (1993).
33. Joshua Fleer, "The Church of Baseball and the U.S. Presidency," 16 *Nine*, 51 (2007); see, e.g., Mike Dodd, "President Lobbs One Up for Tradition," *USA Today*, 15 July 2009, 4C; James C. Roberts, "Change-up We Can Believe In: A Century of Baseball by Members of Congress," *Washington Times*, 23 June 2009, B2; Paul Duggan, "Bush Skips Ceremonial First Pitch Tradition," *Washington Post*, 2 April 2007.
34. "John Grier Hibben Pres. of Princeton," *Charlotte [N.C.] Daily Observer*, 12 May 1912, 1 (Taft and Chief Justice Edward D. White see Princeton–Cornell game).
35. This is probably a reference to the Cubs' 8–3 victory over the Pittsburgh Pirates on May 29, 1909. See "Taft Quits Yale Men to See Ball Game," *New York Times*, 30 May 1909, 1; "Taft Off to Make Gettysburg Speech," *New York Times*, 31 May 1909, 3; www.retrosheet.org/boxesetc/1909/05291909.htm (accessed 21 November 2009).
36. Fuzzy, "Fanning by the Fireside," *Montgomery [Ala.] Advertiser*, 3 March 1913, 7.
37. "Back with Big Smile," *Washington Post*, 7 June 1913, 1.
38. See, e.g., "Yale Defeats Harvard Men," *Los Angeles Times*, 18 June 1913, § 3, 1; "Contests at Yale Are Halted by Rain," *New York Times*, 20 June 1928, 28. And this despite the fact that his son played for and later coached Yale baseball. "Live Tips and Topics," *Boston Daily Globe*, 17 April 1915, 4; "A. L. Knapp, Taft to Coach Yale Nine," *Washington Post*, 24 January 1919, 4.
39. Melville E. Webb Jr., "Prann's Hit in Ninth Beats Harvard, 2 to 1," *Boston Daily Globe*, 18 June 1919, 7.
40. See Lenny Jacobsen, Charles Murphy, in The Baseball Biography Project, <http://bioproj.sabr.org/bioproj.cfm?a=v&v=l&bid=912&pid=16915> (Society for American Baseball Research, accessed 21 November 2009); Alfred Henry Spink, *The National Game*, 294 (2d ed. 1911); Harold Seymour, *Baseball: The Golden Age*, 31, 36 (1971).
41. See "Cubs History: All-Time Rosters: Cubs Owners," <http://chicago.cubs.mlb.com/chc/history/owners.jsp> (accessed 21 November 2009); "Murphy Sells Cubs; Out of Baseball," *New York Times*, 22 February 1914; "\$500,000 Paid for Cubs," *New York Times*, 21 January 1916; "Weeghman to Pay \$500,000 for Cubs," *New York Times*, 6 January 1916; "Chicago Cubs Sold to C. H. Weeghman: Owner of Federal League Club Practically Closes Deal for National Team," *New York Times*, 13 November 1914.
42. "Taft Quits Yale Men to See Ball Game," *New York Times*, 30 May 1909, 1.
43. "Gives Players Just One Day," *Washington Post*, 25 December 1913, 8; "Clubs to Enjoin Contract Jumpers," *New York Times*, 29 December 1913, 5; see also "W. H. Taft Speaks at Baseball Dinner," *New York Times*, 10 February 1916, 8.
44. "Ask Taft to Act as Baseball Head," *New York Times*, 24 November 1918, 1; "Taft Gives Terms as Baseball Head," *New York Times*, 25 November 1918, 14. Taft was probably the first but certainly not the last ex-president to be invited to help out with the administration of Major League Baseball. See, e.g., Robert McG. Thomas Jr., "Nixon to Arbitrate Umpire Dispute," *New York Times*, 16 October 1985, B9.
45. "Baseball Tribunal Declined by Taft," *New York Times*, 1 December 1918, 24.
46. 259 U.S. at 200.
47. The decision in *Federal Baseball* was unanimous as a matter of law (there were no recorded dissents or concurrences), 259 U.S. 200, but it may not have been as a matter of fact. Alexander Bickel reports in his *The Judiciary and Responsible Government* (1984) that Justice Joseph McKenna's confidential internal response "to Holmes' opinion in *Federal Baseball Club of Baltimore v. National League* was: 'I voted the other way but I have resolved on amiability and concession, so submit. I am not sure that I am convinced.'" Id. at 238. That is, McKenna disagreed with the Court's decision in *Federal Baseball*, but he opted to keep his mouth shut, once a common practice at the Court. See G. Edward White, "The Internal Powers of the Chief Justice: The Nineteenth-Century Legacy," 154 *U. Pa. L. Rev.*, 1463, 1469–85 (2006).
48. See G. Edward White, "Would You Like to Do Lunch with Holmes?" 61 *U. Colo. L. Rev.*, 737, 739 (1990). Having spent more than twenty years on the Supreme Judicial Courts of Massachusetts, Holmes could not help but have some familiarity with baseball. He participated in several baseball cases arising out of civil conflicts and state crimes, writing the opinion for the court in at least one, *Commonwealth v. Watson*, 27 N.E. 1003 (Mass. 1891).
49. 259 U.S. at 200; "Majors Sustained in Federal League Suit for Damages," *Montgomery [Ala.] Advertiser*, 20 May 1922, 5.
50. See, e.g., "Taft Here To-day on the Way to Yale," *New York Times*, 22 June 1908; "Knockout of Baltimore Feds Red Letter Day for Baseball," *Sporting News*, 8 June 1922, 3.
51. R. L. Duffus, "Our Chief Justice at Seventy," *New York Times*, 11 September 1927, 2, 22.
52. Id.; "William Howard Taft Dies Quietly at Home," *Los Angeles Times*, 9 March 1930, 1, 12.
53. "Justice Taft Opens Course," *Christian Science Monitor*, 20 July 1925, 6; "The Chief Justice Tees Off," *New York Times*, 2 August 1925.
54. See, e.g., "Chief Justice Taft 64; Entertains Hundred Friends," *Chicago Daily Tribune*, 16 September 1921, 1; "Taft Takes Walk; Refuses to Be Ill," *Washington Post*, 18 January 1930.
55. See generally Robert Post, "Taft and the Administration of Justice," 2 *Green Bag* 2d 311 (1999); Herbert S. Duffy, *William Howard Taft* (1930); Alpheus Thomas Mason, *William Howard Taft: Chief Justice* (1964).
56. "Wild Scenes by High Officials When Game Is Won in Grand Rally," *Philadelphia Inquirer*, 19 June 1912, 12.
57. Compare, e.g., Steve Wulf, "Ball One: On Opening Day in Baltimore, Bill Clinton Threw Out the First Pitch, Continuing a Grand American Tradition That Began with Presidents and Has Gone On to Include Actors, Animals

The Baseball Research Journal, Fall 2009

- and Cartoon Characters," *Sports Illustrated*, 12 April 1993, 84 (crediting umpire Billy Evans), with Eldon L. Ham, "The True Meaning Behind Ozziegate," *Chicago Tribune*, 14 February 2006, 15 ("Taft . . . invented the tradition"), with Ronald G. Liebman, "Walter Johnson's Opening Day Heroics," 10 *The Baseball Research Journal*, 53 (1981) (" . . . Taft attended, accepting the invitation of Washington Owner Clark Griffith, and began the perennial custom of the U.S. Chief Executive 'throwing out the first ball' at Washington openers").
58. See notes 27–31 and accompanying text.
 59. *Id.*
 60. "Supreme Court Justices at Play," *Trenton [N.J.] Evening Times*, 25 October 1910, 9.
 61. "News in Highest Court," *New York Times*, 17 October 1912, 1.
 62. Joseph F. McLean, *William Rufus Day: Supreme Court Justice from Ohio* 63 and n.44 (1946); see also *id.* at 62 ("He did enjoy bass fishing, but his main pleasure was the national pastime. . .").
 63. See, e.g., H. Addington Bruce, *Baseball and the National Life*, 17 May 1913, 104; "Foremost Statesmen of America Plain People, Going About Daily Tasks Like Less Distinguished," *Washington Post*, 14 December 1919, AU4, 5.
 64. "Day Quits Place in Supreme Court," *Atlanta Constitution*, 25 October 1922, 1; see also, e.g., "President Accepts Day's Resignation," *Washington Post*, 25 October 1922, 5.
 65. "Hughes Voices Washington Tribute to Judge Day," *Boston Daily Globe*, 10 July 1923, 5; see also "Death Takes Justice Day," *Los Angeles Times*, 10 July 1923, 12.
 66. "Former Associate Justice Day Dies," *Atlanta Constitution*, 10 July 1923, 16; see also "Death of Former Justice W. R. Day Is Mourned Here," *Washington Post*, 10 July 1923, 3; "William R. Day's Career," *New York Times*, 10 July 1923, 19.
 67. It is impossible to be certain about this, because the Supreme Court did not then and does not now conduct its business in front of large crowds, and because the justices, individually and collectively, have a long history of being very selective about sharing internal Court documents and news of internal Court business with journalists and the public. See, e.g., Bob Woodward and Scott Armstrong, *The Brethren: Inside the Supreme Court* (1979); David J. Garrow, "The Supreme Court and the Brethren," 18 *Const. Commentary*, 303 (2001); see also, e.g., Dennis J. Hutchinson, "The Black–Jackson Feud," 1988 *Sup. Ct. Rev.* 203, 206–7; "Leaky Ethics," 8 *Green Bag 2d* 123 (2005).
 68. See, e.g., "Quill Pens—Lest the Nation Totter!" *Christian Science Monitor*, 21 January 1929, 14.
 69. There is some evidence that on-the-bench World Series updates were not Day's first maneuver conceived to reconcile his commitments to work and to baseball. On July 3, 1897, while Day was serving as assistant secretary of state, the *Chicago Tribune* reported that "[a]ll the Assistant Secretaries" in the State Department "put up a job on Secretary [of State John] Sherman the other day so as to get off in time to see the baseball game." The details of the stunt are not relevant here. See "To Go to a Vote Tuesday," *Chicago Daily Tribune*, 13 July 1897, 12; see also "Death of Former Justice W. R. Day Is Mourned Here," *Washington Post*, 10 July 1923, 3.
 70. Letter from William R. Day to Charles Evans Hughes, 19 March 1912, in Papers of William R. Day, Library of Congress, Manuscript Division, box 3.
 71. "Justice Day and His Four Sturdy Young Sons," *Washington Times*, 8 March 1903.
 72. "Heard and Seen in the Grand Stand," *Washington Post*, 6 May 1905, 9.
 73. "Seen and Heard in the Grand Stand," *Washington Post*, 10 May 1905, 9.
 74. "Baseball at Washington," *San Jose [Calif.] Mercury News*, 23 June 1906, magazine section, 1.
 75. "Members of Supreme Court, After Eight Months Work, Are Off for a Rest," *Miami Herald*, 5 July 1915, 7.
 76. See, e.g., letter from William R. Day to Edward Osgood Brown, 12 June 1914, in Papers of William R. Day, Library of Congress, Manuscript Division, box 3.
 77. Crank, an obsolete term for a baseball fan, was in wide use during the late nineteenth and early twentieth centuries, when Day was following the game. Paul Dickson, *The Dickson Baseball Dictionary*, 114 (1989).
 78. E. J. Edwards, "Our Supreme Court as Human Beings," *New York Times*, 15 May 1910. Day was in fact Roosevelt's second appointment to the Court. Holmes was the first. Members of the Supreme Court of the United States, www.supremecourtus.gov/about/members.pdf (accessed 23 November 2009). See also *Sunday [Portland] Oregonian*, 5 June 1910, § 6, 4; William E. Brigham, "The Completed Supreme Court," *Boston Evening Transcript*, 21 January 1911 (contrasting Day's "slight . . . figure" with his status as "the huskiest baseball crank on the Supreme Bench" and reporting, "They say Day knows as much about the rules of the game as of the Supreme Court itself, and his broken-hearted appearance on the bench is never more impressive than when a ball game is on and he can't get away to attend it").
 79. "What Becomes of the Cabinet Ministers?" *Sunday [Portland] Oregonian*, 5 May 1907, 48.
 80. Letter from William R. Day to F. D. McQuesten, 12 February 1912, in Papers of William R. Day, Library of Congress, Manuscript Division, box 3.
 81. Letter from Luther Day to Wm. R. Day, 20 July 1906, in Papers of William R. Day, Library of Congress, Manuscript Division, box 21.
 82. "Princeton, 7: G.U.," 7, *Washington Post*, 27 March 1910, MS5.
 83. See, e.g., notes 1–3; see also Kevin McDonald, "Antitrust and Baseball: Stealing Holmes," 1998 *J. S. Ct. Hist.* 88 (discussing critiques of *Federal Baseball*).
 84. See, e.g., Bob Woodward and Scott Armstrong, *The Brethren: Inside the Supreme Court* 190–91 (Simon and Schuster 1979); Aaron T. Walker, "Title VII & MLB Minority Hiring: Alternatives to Litigation," 10 *U. Pa. J. Bus. & Emp. L.*, 245, 261–66 (2007); David Greenberg, "Baseball's Con Game," *Slate*, 19 July 2002 ("The opinion—for which Blackmun would long be ridiculed—included a juvenile, rhapsodic ode to the glories of the national pastime, sprinkled with comments about legendary ballplayers and references to the doggerel poem 'Casey at the Bat'"); Roger I. Abrams, "Before the Flood," 9 *Marq. Sports L.J.* 307, 310–11 (1999).
 85. 407 U.S. 258 (1972).
 86. Taft graduated from Yale University in 1878. Eldon R. James, *William Howard Taft*, 68 *Proceedings of the American Academy of Arts and Sciences*, 676 (1933).
 87. Andrew S. Zimbalist, *Baseball and Billions: A Probing Look Inside the Big Business of Our National Pastime* 10 (updated ed. 1994). Zimbalist has repeated this claim in print several times. See, e.g., Andrew Zimbalist, "Baseball Economics and Antitrust Immunity," 4 *Seton Hall J. Sport L.*, 287, 288 and n.6 (1994) (again, the footnote containing a cite to the Federal Baseball opinion); Andrew Zimbalist, "A Sporting Chance for Professional Players," *Legal Times*, 23 November 1992, 25; Andrew Zimbalist, "A Sporting Competition: Reading the Signs," *The Recorder*, 25 November 1992, 8; Andrew Zimbalist, "A Sporting Chance for Professional Players," *Conn. L. Trib.*, 30 November 1992, 16.
 88. 259 U.S. 200 (1922).
 89. See, e.g., David M. Szuchman, "Step Up to the Bargaining Table," 14 *Hofstra Lab. L.J.*, 265, 270, and n.26 (1996); Joshua P. Jones, "A Congressional Swing and Miss," 33 *Ga. L. Rev.*, 639, 646, and n.51 (1999); Roger I. Abrams, "Before the Flood," 9 *Marq. Sports L.J.*, 307, 309 (1999); Nathan R. Scott, "Take Us Back to the Ball Game," 39 *U. Mich. J. L. Reform*, 37, 51, and n.118 (2005); editorial, *Baltimore Sun*, 7 January 1993, 8A; editorial, *Baltimore Sun*, 19 August 1994, 18A; Allen D. Boyer, "Books in Brief," *New York Times*, 25 October 1998 (reviewing Roger Abrams, *Legal Bases: Baseball and the Law* [1998]); Dick Heller, "D.C.'s No. 1 Pitcher: 12 Presidents Have Graced Openers Here," *Washington Times*, 15 April 2005, C9.
 90. Oscar King Davis, *William Howard Taft: The Man of the Hour*, 34 (1908).
 91. *Id.* at 39–40. The Davis biography does, however, feature a photograph of Taft playing golf. *Id.* at 86.
 92. Robert Lee Dunn, *William Howard Taft: American*, 216 (1908).
 93. See notes 71–79 and accompanying text.

DAVIES: A Crank on the Court

94. "The Nine Men Who Have the Last Word," *Washington Post*, 4 February 1906, SM5; see also, e.g., "Americans Whose Power Is Greatest: Personal Side of the Men Who Co[n]stitute the U.S. Supreme Court," *Sunday [Portland] Oregonian*, 4 February 1906, 45.
95. "William R. Day's Career," *New York Times*, 10 July 1923, 19.
96. Joseph F. McLean, *William Rufus Day: Supreme Court Justice from Ohio*, 6–8 (1946).
97. *Id.* at 18.
98. Letter from William R. Day to F. D. McQuesten, 12 February 1912, in *Papers of William R. Day*, Library of Congress, Manuscript Division, box 3.
99. See notes 31–33. In recent years, Supreme Court Justices—John Paul Stevens, Samuel Alito, and Sonia Sotomayor in particular—have begun to participate in first-pitch rites themselves. See notes 10–12.
100. See notes 67–68.
101. Members of the Supreme Court of the United States, www.supremecourtus.gov/about/members.pdf (accessed 23 November 2009). As an Ohioan, the author is obliged to point out that Day, Taft, and Stewart were all also Ohioans (although Taft, who was working at Yale at the time of his appointment, was officially appointed from Connecticut) and to speculate that there might be some metaphysical connection between the Buckeye State and baseball-related greatness on the Supreme Court.
102. Skip Card, "Court of Dreams," *N.Y. State Bar J.* 11 (March–April 2005).
103. See Allison R. Hayward, "The Per Curiam Opinion of Steel," 2006 *Cato Sup. Ct. Rev.*, 195, 206 n.59.
104. For more on the Blackmun papers, see Linda Greenhouse, "Documents Reveal the Evolution of a Justice," *New York Times*, 4 March 2004, A1.
105. Skip Card, "Court of Dreams," *N.Y. State Bar J.*, 11 (March–April 2005); "Notes Exchanged Between Justices During Court Proceedings," *Papers of Harry A. Blackmun*, Library of Congress, Manuscript Division, box 116.

BASEBALL AND LAW

Comiskey's Detectives

Gene Carney

IN DECEMBER 2007, a huge collection of documents, most related to the Black Sox scandal and all of them originating in the offices of the lawyers of White Sox owner Charles Comiskey, was purchased at auction by the Chicago History Museum for nearly \$100,000. Among the documents are the reports from the detectives whom Comiskey hired through his lawyer Alfred S. Austrian. A letter summarizing their findings, dated May 11, 1920, from J. R. Hunter of Hunter's Secret Service of Illinois, was among the exhibits in the 1924 trial, when Joe Jackson sued the White Sox for breach of contract. But the rest of the documents, twenty-eight in all, have probably not been seen for nearly ninety years, and they have never before been made public. In this article are the stories they contain.

The day after the 1919 World Series ended, reporter Hugh Fullerton wrote that seven members of the losing team, the Chicago White Sox, would not be on the roster the following spring. When the Black Sox scandal broke nearly a year later, Fullerton said his authority for that speculation was none other than Charles A. Comiskey. Comiskey had learned of the fix early on—according to a Fullerton memoir in 1935, he knew even before Game One—and during the tainted Series he collected the names of eight players. After the Series, he held up their checks. Several players complained to league president Ban Johnson, who was feuding bitterly with Comiskey at the time. Eventually he mailed out the checks and then signed up the suspected players, except for Chick Gandil, giving nice raises to Joe Jackson, Eddie Cicotte, Lefty Williams, Fred McMullin, and Happy Felsch. (Swede Risberg and Buck Weaver were on multiyear contracts.)

Shortly after the Series, Comiskey offered a \$10,000 reward for any hard evidence of fixing. In contemporary newspaper accounts, it was reported that he had interviewed several gamblers from St. Louis and had hired detectives to investigate the rumors. It was also reported that he found nothing to prevent him from retaining seven of the eight suspects, keeping his dynastic Sox team intact until the scandal forced him to suspend them with just three games remaining in the 1920 season; the Sox finished two games behind Cleveland.

Precisely how the scandal broke is a long and complex story, still somewhat shrouded in mystery. Ban Johnson and Comiskey both sought to take credit for the general “cleaning up” called for by the scandal. Comiskey went public with the news that he had hired detectives and at considerable expense to himself. In September 1920, his staff had brought three players to the Cook County grand jury that was investigating “irregularities in baseball” with Eddie Cicotte's admission of taking \$10,000 in bribe money finally ending the cover-up of the fixed series. It was supposed that both Johnson and Comiskey had turned over all their evidence to the grand jury, but none of it was ever made public.

GETTING STARTED

About three weeks after the World Series ended, J. R. Hunter met with members of the firm Mayer, Meyer, Austrian and Platt. They directed him to find out what he could about certain players, reporting back to Alfred S. Austrian. Hunter would go to California, where he would eventually meet with Chick Gandil, Fred McMullin, and Buck Weaver. His “operatives” would fan out to Milwaukee, home of Happy Felsch; St. Louis, where certain gamblers suspected of being in on the fix resided; and Chicago, to get information from two women close to Swede Risberg. Apparently no one investigated Cicotte, Jackson, and Williams, the three players who later gave their stories to the grand jury.

Hunter's men did visit Detroit, where Eddie Cicotte resided, but well after the scandal broke and after the Black Sox trial; that report was filed July 6, 1922. In his “general report” of January 29, 1924, which he must have prepared for the Jackson trial, Hunter gave a stunning description of what “one of the players located in that town admitted.”

Joe Jackson had written to Comiskey on November 15, 1919, offering to come to Chicago to tell Comiskey what he knew of the fix rumors. Jackson later testified at the 1924 trial (but not to the 1920 grand jury, and not at the 1921 Black Sox trial) that he had tried to show Comiskey, immediately after the Series, the \$5,000 he received from Lefty Williams. Jackson added that he asked about the money again when team representative Harry Grabiner visited Savannah in the

CARNEY: Comiskey's Detectives

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



Shortly after the 1919 World Series, White Sox owner Charles Comiskey offered a \$10,000 reward for evidence that it was fixed, although, according to reporter Hugh Fullerton, he knew of the fix even before Game One. Through his attorney Alfred S. Austrian, he also hired a private detective agency, which investigated the rumor but avoided Joe Jackson, Eddie Cicotte, and Lefty Williams, the three players who later confessed to the grand jury in September 1920.

offseason to sign up Jackson for 1920. If that meeting took place, then there was no need to investigate Jackson. His offer to come to Chicago was ignored. It seems likely that, if the team knew about Jackson's \$5,000, they knew that Lefty Williams received the same amount. Whether they knew about Cicotte receiving \$10,000 before the Series is not known.

In his book *Eight Men Out* (1963), Eliot Asinof has Comiskey's detectives investigating seven of the eight suspected Sox—all but Weaver—and wrapping things up by mid-November. But that was clearly not the case.

CALIFORNIA SCHEMING

Hunter left for California on November 13 but not before sending a note to Harry Grabiner, asking him for a device of some kind that he might use to record conversations. He planned to do that while "the boys" are off playing. He took along his wife, hoping she might extract information once she got "in the wives circles," but there is nothing in subsequent reports indicating she did.

Hunter next checked in via telegram from Los Angeles, informing Austrian on November 26 that "I am making some headway." He had connected with Fred McMullin, who offered to assist Hunter in meeting with other players and their friends "next Friday night. May get some inside information at that time." On December 4, Hunter wrote to Austrian from L.A.—a two-page letter with word of his "guarded inquiry" regarding "Fred McMillan" and "Chick Gundel." (It would take him a while to get their names correct.)

McMullin was employed that winter at the blacksmith shop of the Southern Pacific Railroad. When Hunter "finally connected" with him, he found McMullin to be "very frank and outspoken." In his letter, Hunter summarized McMullin's information in six paragraphs, written as if he were quoting McMullin verbatim—which he isn't, unless he was using that recording device.

Fred was sorry that the Sox lost the Series, "as it throws suspicion on the players who participated in the games, myself included, and I would do anything to develop the true facts, as Baseball would be a dead issue if anything of that kind could be put over. I am going to put myself in your [Hunter's] hands and assist you in any way you suggest."

Hunter had learned that McMullin spoke frequently with his friends about "the suspicion cast on the White Sox." But what he told Hunter is that he knew nothing about any fixing. He speculates that a fix could be executed only by the pitchers and catcher. He expressed disappointment with pitchers Cicotte and Williams, who had had highly successful regular seasons. Gandil "showed up very poorly, and I could hardly figure him out." McMullin then offered to meet with Gandil and "get down to brass tacks with him as a matter of self-preservation, and see what I can rope out of him." Hunter told Austrian that he was "satisfied that Mc-Millan is honest in his intentions, and will do anything he can; but he is very much worried that anything should leak out which would uncover him. I assured him that there was no fear of exposure." And indeed, there was none—for the next nine decades.

On December 8, Hunter met with Chick Gandil. He sent Austrian a three-page report on December 13. He had learned that Chick and his wife bought a new bungalow, in a new subdivision known as Angeles Massa, "worth about \$6,500." (In *Eight Men Out*, Asinof has Hunter discovering that Gandil has also bought "a sizeable quantity of diamonds," but there seems to be no evidence to support that.) Harry Grabiner had told Hunter that, of all the players on the team, Gandil was "the most prospective man who would be susceptible to any deal with gamblers." Hunter posed as an ordinary salesman with interest in real estate and then got around to talking baseball.

Gandil said he "felt keenly" about the stories circulating that suggested the Sox tossed the Series. But he said he neither took any money nor was approached by anyone offering bribes (which may have been technically true, if Gandil initiated the exchanges with the fixers). He blamed the rumors on the gamblers who lost big when they bet on the favored Sox in the first

two games (both won by the Reds). Gandil goes further, stating that no one on the Sox “got a dollar to lend himself to any crooked deal.”

Losing the Series helped raise suspicions, but Gandil said it was simply an upset. (He was still saying that in 1956, when he was interviewed by Mel Durslag for *Sports Illustrated*.) “I got so provoked that I wrote Mr. Comiskey that I did not want to continue in the game, and asked that he release me.” That was not the case: Gandil intended to play ball or manage a team out west, and he continued playing “outlaw ball” even after being banned in 1921. He explained that he had taken out a \$3,300 mortgage on his home, and he was quick to tell everyone that he did *not* buy it, or his new car, with any ill-gotten monies.

Hunter tested Gandil’s stories with others and found that he was consistent, if not totally honest. Gandil had given Hunter a “guarded inclination [to think] that Weaver should know, if anyone,” whether any player took a bribe the previous October.

On December 20, Hunter telegraphed Austrian from San Francisco, to let him know he had received the wire from the Sox to discontinue his work on the West Coast. But he’s met with Buck Weaver and “picked up some pointers” that may prove fruitful when he gets back to Chicago.

It is not until January 22, 1920, that Hunter filed his three-page report on Buck. He explained that he had a real-estate man “connect up” with Weaver at his home in Venice. Buck denied knowing anything about any “frame-up to throw” the games, though he added that some of the plays “might be construed as being suspicious.” He said that “if any crookedness took place, it was pulled off in Chicago” and two South Side girls would know about it.

Later, Hunter phoned Weaver, posing as a reporter. Weaver repeated his story, saying the best team simply lost. He added that only a few players would need to be bribed, not “half the team.” He was sorry that the Sox lost, which just added fuel to the fix rumors. He was aware that the rumors would hurt baseball and that the popularity of the sport was directly linked to player salaries. He worried that baseball would become as discredited as horse racing. Hunter found Weaver to be “a rather frank, outspoken fellow” and was inclined to believe his account.

Leaving Los Angeles, Hunter tried to connect with Swede Risberg in San Francisco, but then he got the letter from the Sox, pulling the plug on his California investigations. But he did learn the names of the two Chicago girls Weaver mentioned, one of them being Risberg’s “sweetheart,” and one of his operatives was



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

Eddie Cicotte during the regular season in 1919 went 29–7 with 1.4 walks per nine innings; in the World Series, 1–2 with 2.1. He confessed to the grand jury in 1920 that he received \$10,000 from gamblers for helping to throw the Series to the Reds.

trying to rent a Chicago flat with them (“take a room at \$10.00 per week”). Hunter speculated that Risberg may have given “Miss Marie Purcell” \$500 to start her up in a business.

Finally, Hunter refers to an article in *Collyer’s Eye*, a Chicago weekly. The *Eye*, which had been doing its own investigating in the wake of the tainted Series, reported on October 18 that a “striking blond” woman bet \$2,000 on the Reds. The *Eye* thought it might be the wife of Lefty Williams, and those rumors persisted for several years. But Hunter thought the description was of Florence Brown, the friend of Marie Purcell. Hunter was hopeful that his operative could gain access to the papers in Miss Purcell’s room and “install a dictagraph” so that he might get “inside plans” from Risberg or any players visiting there.

CHRISTMASTIME IN MILWAUKEE

On Sunday, November 2, “Mr. R.” traveled to Milwaukee and assigned “Operative #11” to investigate Happy

CARNEY: Comiskey's Detectives

Felsch. A native of Milwaukee, Felsch lived there his entire life and spent the offseason there in the fall of 1919. Number 11 set out to locate Felsch the next day. He had been given the wrong address, he soon learned from the bartender at a saloon where he was told ballplayers hung out. Number 11 was also informed that Felsch had bought a new Hupmobile and was out hunting ducks.

Number 11 then visited another baseball hangout, where he noticed a large picture of Felsch at the bar. There he was told Felsch had sold his house, bought a car, and was living somewhere in the neighborhood. At a third bar, called Hungarian, he heard that Felsch had lived next door but moved down the street. From a grocer, he learned that Felsch lived with his wife, her parents and sister, and the sister's two small children. Their home was in a "poor neighborhood" and had eight rooms and no bath; they were renting it for \$22 a month. They were crowded quarters, and Number 11 wrote that "this fact will prevent me from obtaining a furnished room in their house."

Over the next three days, while Felsch was away hunting, Number 11 "made frequent trips to the saloons" to glean any information he could from the patrons. He returned daily to Felsch's house, hoping to shadow him, finally finding the garage empty on November 11. Number 11 then filed his first report to the Hunter office. It was forwarded to Austrian on November 14.

His next report picks right up on November 12, where Number 11 arrives too late. Felsch had left in his car. For the next week, Number 11 cruised Felsch's neighborhood and visited the saloons where Felsch usually hung out, but he made no connections. Then he asked the office for help. On November 21, Operative ABG left Chicago for Milwaukee, meeting with Number 11 around dinnertime. Then they started visiting pubs, staying in one saloon several hours. They learned that Felsch was going hunting again the next day. They check one more saloon but learned nothing there.

ABG knocked on the Felsch door November 22, posing as an oil-lease salesman, and spoke with Felsch's mother-in-law. She said Felsch was sleeping in. ABG and Number 11 decided to wait him out and finally saw Felsch leave his house and drive away about 1 P.M. They then went to his favorite saloon, but he wasn't there. Back at the Felsch house, his mother-in-law told ABG that Felsch was at a friend's, preparing for a deer-hunting trip. ABG and Number 11 waited the rest of the day, but Felsch never returned.

On December 10, Number 11 wrote to Austrian, explaining that, during the past week, all of his efforts

to connect with Felsch had failed. Felsch was either out of town or not home. But Number 11 had a clue—he was told by someone that Felsch had opened "a Christmas tree headquarters at 559 3rd St." Proceeding to that address, Number 11 found that the store there was rented by the Schlitz Brewery Co. and stocked with 225 Christmas trees. Felsch's trees were elsewhere. The next day, he finds out where—the lot near Felsch's home is filled with trees, which he was selling.

Number 11 bought a large tree from the man on duty and then invited him to the saloon across the street. There he learned that the man was Felsch's father-in-law. Now Number 11 decided to pose as someone interested in selling trees himself, saying he'd like to buy "quite a number," angling to meet Felsch in person. An appointment was made for Number 11 to meet with Felsch between 6 and 7 P.M. They met, finally, at 6:20 P.M., after forty long days of countless saloon visits and fruitless stakeouts.

Felsch, of course, was ready to leave town again and tried to turn Number 11 over to his father-in-law. Number 11 learned that Felsch paid \$1,875 for his Hupmobile, which froze in his barn about ten days earlier and was now in a garage. Felsch then remembered a meeting he had to attend, and Number 11 could walk with him only as far as the streetcar. But first, Number 11 got Felsch into a corner saloon, where Felsch started talking about—bowling. Forty-five minutes later, he remembered his appointment again and said good-bye, asking Number 11 to come back in the morning.

Number 11 arrived at Felsch's home at 10 o'clock on a Saturday morning. He bought twenty-five trees, which are piled on a Ford truck and delivered to Number 11's home. Afterward, Number 11 and Felsch visited a saloon, where they had drinks and shot some pool. Felsch talked about—his next fishing trip. Number 11 was invited back to Felsch's home, where Felsch entertained him with his new player piano, purchased recently for \$560. Number 11 was reluctant to bring up baseball, since they were not that close yet. But Number 11 let him know that he liked fishing and had a vacation coming up. Felsch invited him to go along on the trip north. Number 11 had him right where he wanted him. They talked, and Felsch explained to him "in detail the various moves of a ballplayer, and I can see that he has taken a liking to me." Number 11 left about 12:30 P.M., advised the office on developments, and received "instructions for the future."

Monday and Tuesday, Number 11 set his trap. He played cards at Felsch's home, entertained him at a saloon, and had his wife accompany Felsch and Mrs. Felsch on a shopping tour, during which the couple

“were open in their statements and talked on a lot of subjects,” though none had anything to do with the fix. Number 11 was convinced that he needed to get Felsch “alone, and in the proper mood, before he will talk at length about baseball.”

It had been necessary for Number 11 to buy more trees, making one wonder who was stringing whom along. Number 11 wrote that he hoped he could sell the trees later. The weather was not suitable for fishing, but “just as soon as the ice gets right” Number 11 had him. On December 17, Felsch phoned Number 11 and said he was eager to dispose of more Christmas trees. Number 11 was fortunate and found Felsch a buyer for 190 of them. “This purchase seemed to please him.” But Felsch reported that the ice has cracked, so there would be no fishing trip any time soon. They could always talk, though, visiting saloons. Felsch was now resting up; his team was bowling that evening. He told Number 11 that, on road trips, he was partners with Eddie Cicotte. Number 11 watched Felsch bowl that evening, but they could not talk.

The next day, Number 11 stopped by and paid Felsch for the trees. Felsch demonstrated the player piano again, played the phonograph, and explained more baseball plays and tricks. When the conversation drifted to “the owners and officials of the game,” Felsch commented that many of the officials “have great graft”—the same as those of any business. Number 11 did not pursue this, not wanting to “show too keen an interest, not wishing to arouse any suspicion at so short an acquaintance.” After lunch, they headed to a saloon and talked with the barkeep about ice fishing. Then they parted. Felsch promised to phone him.

On December 24, Number 11 wrote the report that the Hunter office had been patiently waiting for. He had returned from a fishing trip with “F” and his friends. This was the first time that he referred to Felsch as “F,” and he did so throughout the report. Perhaps he figured *this* one would go all the way to the top.

The party had left Milwaukee on Friday the 19th. Felsch furnished the car, his friends the cottage, and Number 11 the provisions, which must have included a lot of beer. The fish, however, were not biting, and the party returned sooner than expected. Number 11 was doing his own fishing, of course. Felsch talked sports, saying all sports could be faked, even baseball. Club owners could have an understanding about where the teams would finish and have their players perform accordingly. When the 1919 Series came up, Felsch said the Sox were “over confident and out of luck.”

After Christmas, Number 11 remained in constant

touch with Felsch. When the 1919 Series came up, Felsch either dropped or changed the subject. On December 30, Happy and Marie Felsch were at the home of Number 11. They spent the afternoon and evening there. Happy agreed to take Number 11 and his children out for a drive, leaving the wives at home alone to chat. Felsch and Number 11 visited bowling alleys and saloons, returning about 5:30 P.M. While the men and children were away, Mrs. Number 11 heard Mrs. Felsch tell about how confident she and Happy were before the 1919 Series, and how disappointed after. They blamed the loss on poor pitching. She said they felt that Lefty Williams had been in no condition to pitch one of the games, having had whiskey the night before, even after being warned by the manager not to drink. “She spoke of a pitcher [likely Red Faber] who has been in the Navy, who had so much Anti-toxin shot into his arm that it practically made him useless.” The Felsches were at Number 11’s home until late in the evening but said nothing else that Number 11 judged to be reportable.

On New Year’s Day, Felsch was sick in bed. His wife phoned Number 11 to cancel their theater party that evening. Felsch was still in bed the next day, but feeling better, when Number 11 visited. Number 11 writes, “He has not indicated to me in his talk thus far that he had his hand in the deal, but has told me various ways that it could be done.” Number 11 then acknowledges receipt of instructions to discontinue his investigation for the time being.

On January 8, Operative Number 11 filed his final report, and Hunter forwarded it to Austrian on January 12. Number 11 had gone fishing with Felsch again—for fish, that is—for several days at Okauchee Lake. One evening, while sitting and smoking, the topic of Comiskey’s \$10,000 reward for information came up—it was mentioned in an item in the *Milwaukee Journal* on December 30, and Felsch had noticed it. “He did not seem at all interested and only said that he had heard of it. Claims that he cannot imagine that any player would stoop so low.” Felsch blamed the fix rumors on gamblers who were sore losers.

“My observations to date: I believe that ‘F’ is innocent, but at the same time I believe he knows more than he cares to tell.” Felsch and Number 11 parted at the latter’s home, “on the best of terms, and ‘F’ promised to visit me again in the near future. Was given instructions to do nothing further for the present.”

WHAT ABOUT DETROIT?

As noted above, the only report filed by the detective who visited Detroit was filed in 1922. On January 29,

CARNEY: Comiskey's Detectives

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



The private detective who assiduously investigated White Sox outfielder Happy Felsch at Felsch's home in Milwaukee concluded that he was innocent in the Black Sox scandal but that he probably knew more about it than he was willing to divulge.

1924, with the coming Jackson trial in mind, J. R. Hunter sent Charles A. Comiskey a "general report" on the findings of his staff. In that two-page letter Hunter says that his man in Detroit reported that

one of the players located in that town admitted that he knew there was a frame-up between some of the players and the gamblers, where they were to receive certain amounts of money in the event that they would permit Cincinnati to win; and this player volunteered to give an affidavit covering such facts, providing we would get the consent of his lawyer who was located in Detroit, and whose name he furnished.

This was probably Eddie Cicotte, who had confessed to the 1920 grand jury that he took a \$10,000 bribe. The only other White Sox player who lived in Detroit was Nemo Leibold. There is no record of an affidavit by him, and so, if Leibold was the player Hunter was referring to, we can only guess that his lawyer advised against it.

On October 7, 1920, in the wake of the scandal's breaking, *The Sporting News* reported that a Detroit paper ran an article about one of the "clean Sox," Nemo Leibold, "a graduate of Detroit's sand lots."

Before the start of the last World's Series some of Leibold's former team mates and pals wrote him asking for an inside tip on the Series. Leibold never answered the letters. When Leibold returned to Detroit last winter his friends demanded to know why he ignored their letters. "I was in a spot where I couldn't advise you either way, so I just didn't answer. That was the only

thing I could do," answered Leibold without further information.

That Leibold may have had some "guilty knowledge" is not at all surprising. There is ample evidence that manager Kid Gleason confronted the team about the fix rumors, perhaps as early as before Game One, mentioning the \$100,000 figure that was being tossed around. (Comiskey testified at the 1924 trial that Gleason spoke to the team before Game Two.) Whatever Leibold knew, we may never know.

When J. R. Hunter summed up his agency's finding in a letter to Comiskey dated May 11, 1920, he made no mention of Detroit. And the investigation ended. But it reopened in 1922, when three White Sox players filed lawsuits against the club, for back pay and damages to their reputations and careers. Hunter himself (or "our Mr. H.") visited Eddie Cicotte in Detroit, to see if Cicotte would be a helpful witness for the Sox in the coming trials. They met at a hotel on July 2; Hunter dated his report July 5.

Mr. H. sounded Cicotte out and then wrote a summary of what Cicotte was supposed to have said. "Comiskey was actually kind and considerate to all his players," Mr. H. wrote. Cicotte expressed deep regret for what he did and the disgrace it brought. He pledged to help but referred Mr. H. to his lawyer, Daniel Cassidy, of Detroit, and gave H. Cassidy's address.

There is every reason to suspect that Mr. H. was telling Comiskey what he wanted to hear. On August 23, Cassidy wrote to Alfred Austrian that Cicotte was declining the deposition; he preferred to stay out of the public eye. When Cicotte was deposed, against his will, in 1923, he was not at all cooperative, probably advised by his attorney not to say anything incriminating. This forced the Sox lawyers to depose him again, just before the 1924 trial, reading to Cicotte his grand-jury statement from 1920 and asking him if he was telling the truth at that time. Grudgingly, Cicotte stood by his 1920 statement, avoiding any charges of perjury.

ST. LOUIS

Immediately after the 1919 Series, the White Sox received a tip about gamblers from St Louis and sent team representatives, including manager Kid Gleason, to check it out. They met with Harry Redmon, a theater man in East St Louis. Redmon's story, told twice to the Sox (Redmon came to Chicago in December 1919 and spoke directly to Comiskey and Austrian), can now be read in full, as the documents at the Chicago History Museum contain the transcript of his grand-jury statement from late October 1920.

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



From two women who are friends of White Sox shortstop Swede Risberg, the detective investigating him in Chicago in the offseason after 1919 obtains information suggesting that he was involved in the fix.

Redmon pointed the Sox toward Joe Pesch, a gambler and pool-room operator, who became the target for Hunter. Operative EM first reported on November 9, 1919. He found Pesch's billiard hall. He was also checking out gambler Carl Zork and had found him in the city directory, but there was no listing for "Abe Attell" (a New Yorker at the time), and EM thought "Abe Attell" might not be a real name. (Attell was later alleged to have worked as a messenger between White Sox players and gambler Arnold Rothstein.)

At the pool hall on November 12, EM made friends with some of the regulars—Herman, Al, and Bill. They introduced him to Pesch, who in turn introduced EM to a car dealer named Jones. The next day, EM was dancing with Jones and Jones's daughter. And EM overheard what may have been the first documented use of the phrase "Black Sox": "Some man" remarked to Pesch: "I want to bet on the Black Sox, as they can't call themselves 'White Sox' any longer. They do not

play white baseball. With them a man does not get a good chance for his money." EM picked up on the remark but is unable to learn the man's name.

In his next report, EM is now EWM. On November 14, he spent all afternoon at the pool hall and got to know Al pretty well. Al gave EWM a rundown on the hall's finances, saying that, if it were not for the "handbook," they would lose money. But in 1919, handling \$17–18,000 in baseball betting, they lost about \$1,000. That morning, EWM met Carl Zork "under a misleading pretext." In the evening he saw Zork and his wife but didn't make contact. By November 17, EWM had played a lot more pool, and he had concluded that Jones knew little about baseball. He saw Zork again, but only in passing. He did not "hang out" in his hotel's lobby.

On November 21, EWM wrote that his progress had been slowed by a pool tournament at Pesch's place. He was also frustrated in his attempts to corner Zork, who was "most always with his wife." By November 30, EWM had talked with a lot of pool players, and, while they all felt the 1919 Series was crooked, none had "any information as to how it was pulled off." Al pointed to the games pitched by Cicotte and

Williams but had no idea who was "in on the deal." Al believed "it will never be found out." Al mentioned that Kid Gleason was in town, investigating for three or four days, "but I do not believe he got anything definite." Gleason did not meet with Pesch, "an authority on baseball [who] sets the prices on betting." Al did not think Pesch was involved in any fixing, since he lost \$2,000 on the Series. Al stated that, if he knew anything, he'd take it to Comiskey for the reward money. "Every man has his price." Al wondered if Cicotte and Williams were the only ones who played crooked, betting their own money.

EWM has concluded that Al is truthful, and this view about him seems to be the "general feeling." EWM had been unable to find Frankel (a gambler from Omaha who went by the name Ben Franklin) but reported that Harry Redmon was in town. He also mentioned an article in the *Journal* about the fix, and he understood that Tom Fairweather, mayor of Des

 CARNEY: Comiskey's Detectives

Moines, Iowa, had written a letter to the White Sox. (Several gamblers involved in the fix lived there.)

On December 4, EWM restated his belief that he was at a dead end in St Louis. He acknowledged receipt of a wire directing him to “discontinue and return.” “All of the boys were sorry to see me go.”

THE FURTHER ADVENTURES OF EWM

Back in Chicago, EWM met with Alfred Austrian and was given information about Marie Purcell, a name received from Hunter’s trip to California. In EWM’s reports, Purcell became “Subject.” EWM was soon living at the Drexel Arms Hotel, in room 310, just a few doors from Subject. She was, EWM reported after finally seeing her on December 10, about 5 feet 7 inches, about 150 pounds, 24 years old, and of medium build. She had black hair. Her friend—Florence Brown—was the same weight and age. She was 5 feet 6 inches and had reddish blonde hair and good features. EWM met them in the hotel cafe and on the streetcar. He learned that Subject owned a beauty parlor, confirming what Hunter had learned. Both Purcell and Brown had recently moved to Chicago from Detroit. (Newspaper accounts after the scandal broke mentioned “beautiful women brought in from Detroit,” but they were supposed to have gone after the Reds.) By the evening of December 17, EWM was playing cards in the women’s room, having already stopped by the parlor for a manicure. After the card game, EWM went out for a walk with them, ending up at the Ellis Cafe, where they danced and drank until 12:45 A.M.

EWM noticed in Subject’s room a picture of Swede Risberg in his baseball uniform. “He is a very wonderful friend of mine.” Risberg came up again in conversation at the Ellis Cafe. He and his friends were with Purcell and Brown at their Chicago hotel throughout the 1919 World Series, “sneaking away” from their own hotel and their manager. Subject had passes for all the Series games in Chicago.

On December 29, EWM reported that he had been with the women almost every evening. They had all become good friends. They occasionally went out dancing and drinking into the wee hours. A traveling tire salesman, Roy Theilen, joined them one evening and remarked: “No wonder the ‘Swede’ lost these games. I would have too if there was as much in it for me as there was for him. Then another thing, if he was with Marie (meaning Subject) every night, he didn’t have much ‘pep’ the next day.”

But no one talked about any money being paid, and EWM did not pursue it. EWM learned from Florence Brown that Subject received the startup

money for her business from her father, not from Risberg. EWM was skeptical about that. He was invited by the women to move into an open room in their apartment. He thought this a good idea, as he would be better able to keep track of Subject’s mail. And, he speculated, he would eventually meet Risberg and other baseball players when they came to Chicago: “We could have some fine times together.”

EWM did not report again until after the holidays. His contact with the two women had been constant. Subject said she had not heard or seen Swede Risberg since the Series ended. “Miss B.” said she was very friendly with Fred McMullin, and “in fact, both Subject and Miss B. are on very friendly terms with most of the players on the Sox, and frequently held some lively parties when they were in town.”

On January 5, EWM reported that Subject had been observed in her room with the framed picture of Swede Risberg. She started swinging it and remarked, “Well old kid you may swing worse than that, if you are not careful—if ‘they’ knew what I know.” That convinced EWM that the women know all about the fix but won’t talk.

An article in the *Chicago Tribune* on January 9 had Risberg holding out, threatening to resign and start a restaurant in California. Miss B’s mother then said she supposed he would “take his \$10,000, which he was supposed to have gotten in the Series.” Subject replied that it was a bluff, that Swede would sign and play again with the White Sox (which he did). EWM then made his move, asking “Subject point-blank what she received out of the \$10,000”—and she admitted she got her shop out of it. He asked what else, and she changed the subject.

The next report from EWM, who now went by S-1, came more than six weeks later, on February 25, 1920. He had moved in with the two women and Miss B’s mother. He had agreed to pay half the rent for at least three months. But he had not learned any more about Risberg’s \$10,000 from anybody. One evening he brought up the fix rumors and said it looked like Risberg was in on it, and that touched off an hour-long argument. Neither woman believed that the Series was thrown. They said a friend of Risberg’s lost \$800 betting. Hunter met with S-1 at length and was confident he would eventually meet Risberg, McMullin, and others, a development that would justify this lengthy undercover operation.

Sure enough, S-1 was still with the women when April rolled around. On April 13, Swede Risberg appeared at the apartment, remaining for supper and not leaving till 1:30 A.M. Risberg joked about how

manager Gleason caught him coming into his spring-training hotel in Dallas at 2 A.M. S-1 in his report then referred to a report he filed after meeting Risberg the day before, on April 12, a report not in the collection.

After reviewing all of EWM's reports, the reader may wonder whether EWM is perhaps a female operator. But a January report quotes Subject as saying to EWM, "Say Ed, what are you trying to do—get something on me or looking for information," and laughing. In a report of December 4, from St. Louis, EWM used his first name while quoting "Al." And in a postscript in his final report, Hunter confirmed that he and Harry Grabiner had suggested that "operative leave *his* present quarters and try to arrange headquarters for *himself*," but they decided to leave the decision to "Mr C." (Comiskey).

In the days that follow, Risberg phoned often. He had promised Gleason that he would be in his own hotel by 11:30 P.M. Subject thought Risberg would find ways to sneak out. There is no mention of S-1 moving on or moving out. He and the women he was investigating may have lived happily ever after.

SUMMING UP

On May 11, 1920, J. R. Hunter prepared what would be his final report (until that Detroit trip in 1924). He summed up all of his detectives' activities, in St. Louis, Milwaukee, Chicago, and California. His men "were not able to make any specific connection between the players and the gambling combination" they found in St. Louis. Nothing developed from meeting with the three players on the West Coast. "Nothing conclusive" came out of the operative's discussions of bribery with the Chicago women. No evidence of betting was found. Hunter and his men gave it their best try but still could not answer the question about what prompted the rumors of a fixed World Series. He thanks Comiskey for the cooperation from everyone in "the White Sox Company." And he presents the bill for his services: \$3,820.71.

After the 1924 Detroit trip, Hunter amended the final bill to \$3,884.98—still well below the \$10,000 quoted by Comiskey after the scandal broke, in a statement that he prepared, at the suggestion of Yankee team owners Cols. Huston and Ruppert, to tilt public opinion in his favor. Comiskey said that the investiga-

tion was terminated May 20, 1920, but in fact there was little activity after January.

In the report that he prepared for the 1924 trial, Hunter made it seem that the Detroit work was done in 1919. Put on the witness stand at the 1924 trial, he was quizzed about his agency's activities. He did not mention the Detroit work. Only the May 11 summary was on exhibit at the trial. Asked if he knew that Comiskey had spoken with Happy Felsch a few days after the 1919 Series, Hunter replied that he had heard some reference to that but could not recall what was said. He was asked, "Were you told to avoid those sources of information that might pick up something that might be embarrassing to Comiskey, or to the White Sox?" Hunter replied simply, "No, sir." He had no guess as to why he was not asked to investigate Jackson, Cicotte, or Williams.

Most likely it was the team lawyer Alfred Austrian who advised Comiskey to investigate his players. It was a way of doing *something* while keeping his team mostly intact. When the scandal finally broke, the *Chicago Tribune* cited Harry Grabiner, who said that Comiskey had been investigating the fix rumors during the past year and that he conveyed his findings immediately to the grand jury. "We presume it was this evidence that caused the indictments to follow." It is not clear that the reports actually made it to the grand jury, but that he had hired detectives was important for Comiskey. He was perceived to be not part of the cover-up but rather as working to rid baseball of any crookedness. There were some accusations, but they never gained traction.

In 1990, after Yankees owner George Steinbrenner paid gambler Howard Spira for information damaging to ballplayer Dave Winfield, he was ordered by Commissioner Fay Vincent to resign and was banned from the club's day-to-day operations. In 1919, the National Commission was a lame duck, and American League president Ban Johnson was under fire from several club owners, including Charles Comiskey. There is little doubt that the struggle for power within baseball prevented a coordinated, thorough investigation into the rumors of bribery connected with the 1919 Series. What Comiskey found, through the detectives he hired, he kept to himself. And their reports remained hidden from public view—until today. ■

BASEBALL AND LAW

A Tall Tale of *The Brethren*

Ross E. Davies

IN THEIR BOOK *The Brethren: Inside the Supreme Court*, Bob Woodward and Scott Armstrong tell a small but striking story of the racial insensitivity of Justice Harry A. Blackmun.¹ It happened during the drafting and circulation of opinions in *Flood v. Kuhn*, the 1972 baseball antitrust case.² As the story goes, when Blackmun circulated the first draft of his opinion in *Flood*, with its famously romantic introductory salute to the good old days of baseball and list of “celebrated . . . names” from the history of the game, the list of names was as segregated as the Topeka public schools in 1954. Blackmun had excluded African Americans from his list of baseball celebrities. It was only when pressed to do so by Justice Thurgood Marshall that he added black players to the list—Satchel Paige, Jackie Robinson, and Roy Campanella.

It has been said that this story from *The Brethren* “makes no sense,”³ but that is not enough to make it false. *The Brethren* accurately reports some pretty nonsensical behavior by people who worked at the Supreme Court during the period covered by the book (1969 to 1976). Moreover, the authors of *The Brethren* claim there is documentary proof of their story of Blackmun-versus-Marshall in *Flood*. Nevertheless, the story is false. The document from which the authors quote—Blackmun’s allegedly racially exclusive circulated first draft in *Flood*—does not exist and never did. Paige, Robinson, and Campanella were present in the first circulated draft and thereafter. And thus Marshall’s objection to the offending draft never occurred either. There was nothing to object to.

Before getting to the business of correcting this sliver of the historical record, it is worth pausing to consider the value of contradicting a two-page anecdote about a single baseball case buried in the middle of a 444-page book written almost thirty years ago. In short, the accuracy of *The Brethren*’s Blackmun-versus-Marshall story matters not only because it is generally good to know the truth—especially on a subject as perennially salient as a justice’s views on the place of race in a decision by the Court—but also because *The Brethren* is an important book, the importance of which hinges in large part on the consistency with which the stories it tells turn out to be true.

THE BRETHREN

When it was published in 1979, *The Brethren* gave the public an unprecedented look at the inner workings of the Supreme Court.⁴ It did so in a crisp, anecdotal style that made it appealing and accessible to the lay reader. The book’s numerous behind-the-curtains vignettes also provided a wealth of otherwise unavailable factual detail about the thinking and behavior of the justices and their staffs that made it irresistible to Supreme Court journalists, scholars, and other specialists. The combination of an important subject, intriguing new information, and good writing made *The Brethren* a commercial success. It was also controversial, both for its content (it related many less than flattering stories about the Justices and others at the Court) and for its method of reporting (it was based largely on anonymous sources and confidential documents).⁵ The book weathered the early controversies and has gradually become a standard resource for scholars and other commentators—and, in recent years, even some federal judges⁶—seeking to understand the Court. The list of respectable scholars who have relied on *The Brethren* is long and lengthening.⁷ Nowadays, whenever a new Supreme Court exposé appears, it is to *The Brethren* that it must first be compared.⁸

At first, however, readers—having no access of their own to Woodward and Armstrong’s anonymous sources and confidential documents—had no basis for believing the stories told in *The Brethren*, other than the inherent plausibility of those stories and the authors’ reputations for reliably uncovering and sorting the true from the not so true. On that front, there was at the time (and probably remains) no user of anonymous and confidential sources with a more impressive track record than Woodward. He had already written two anonymously sourced and largely vindicated books about the inner workings of the executive branch of the federal government, *All the President’s Men* and *The Final Days*, as well as many articles based on anonymous sources for the *Washington Post*. And Armstrong had played a major role in the research and writing of *The Final Days*.⁹

As time passed, *The Brethren* had to stand on its own. Anonymous sources spoke to other authors,

previously confidential documents became public, and some stories told in *The Brethren* could be verified or falsified. If those stories that could be checked did not check out—if Woodward and Armstrong, or their sources, had been fabricating tales of the Supreme Court—those truths would come out, undermining not only those particular stories but also the book as a whole. After all, if the stories we can check turn out to be false, why should we believe the stories we cannot check?¹⁰ On the other hand, if those stories that could be checked did check out, then the converse inference would apply: It would be only reasonable to acknowledge that the credibility of the stories we cannot check is enhanced by the accuracy of the ones we can. So far, *The Brethren's* checkable stories have turned out, scattered bit by bit, episode by episode, to be true¹¹ or at least not definitely false—with the exception of a few “small errors” picked up by early reviewers.¹² This has added to the credibility and influence of the book as a whole. Linda Greenhouse, the Pulitzer Prize-winning journalist who covers the Supreme Court for the *New York Times*, wrote in her biography of Blackmun that *The Brethren's* “reliance on anonymous sources has made that best-selling book controversial, but, in many instances, Blackmun’s case files attest to its accuracy.”¹³ And Professor Mark Tushnet, who clerked for Marshall during part of the period covered by *The Brethren* and has studied the Court ever since, has observed that “[t]he accounts in *The Brethren* are factually accurate on nearly every point.”¹⁴

Until the opening of Blackmun’s papers at the Library of Congress in 2004, the Blackmun-versus-Marshall episode in *Flood v. Kuhn* was one of the uncheckable stories. Now it can be checked, and it does not check out.

Which raises a more complicated question: If some of the stories we can check are true and at least one is false, does that make all of the remaining unchecked stories unreliable, or only some of them, or perhaps none? The answer to that question depends on the answers to two intermediate questions. First, where did the false story come from, the authors or a source? If the former, then all unchecked stories are subject to doubt. If the latter—if a source somehow duped the authors—then the second question arises: Did that source provide information for any other part of the book, and if so what part or parts? If the source helped only with the Blackmun-versus-Marshall story, then perhaps the rest of the book should retain the standing it enjoys today, subject perhaps to a bit of extra skepticism courtesy of one small blemish on the authors’ reputation for winnowing truths from lies delivered by

anonymous sources. If the source (or sources, if Woodward and Armstrong relied on more than one for Blackmun-versus-Marshall) did more, then those stories should be doubted (fool me once, shame on you; fool me twice . . .). The answers to these questions are probably available only from Woodward and Armstrong. But the true story of Blackmun-versus-Marshall in *Flood* can sharpen the questions, even if it cannot answer them. This is the added value of contradicting one anecdote about a single baseball case buried in the middle of *The Brethren*.

Which brings us to that anecdote: *The Brethren's* tall tale of Blackmun-versus-Marshall in the *Flood* case.

THE TALL TALE

Part I of Blackmun’s published opinion in *Flood*, which he announced in Court on June 19, 1972, contains his salute to the game of baseball. It includes a list of eighty-eight “celebrated . . . names” from the history of the game, a list that grew from seventy-four names when he circulated his first draft of the opinion on May 5, 1972. The tale of the birth and growth of the list was first reported by Woodward and Armstrong. Here is the story as they tell it on pages 190 and 191 of *The Brethren*, starting with Blackmun’s reaction when Potter Stewart, the senior justice in the majority after the initial vote in conference on the case, assigned the opinion for the Court to him:

Blackmun was delighted. Apart from the abortion assignment, he felt he had suffered under the Chief, receiving poor opinions to write, including more than his share of tax and Indian cases. He thought that if the antitrust laws were applied to baseball, its unique position as the national pastime would be undermined. A devoted fan first of the Chicago Cubs and later the Minnesota Twins, he welcomed this chance to be one of the boys.

With his usual devotion to detail, Blackmun turned to the *Baseball Encyclopedia*, which he kept on the shelf behind his desk. He set down minimum lifetime performance standards—numbers of games played, lifetime batting averages or earned-run averages. He picked out representative stars from each of the teams, positions, and decades of Organized Baseball. Then, closeted away in the Justices’ library, Blackmun wrote an opening section that was an ode to baseball. In three extended paragraphs, he traced the history of professional baseball. He continued with a list

DAVIES: A Tall Tale of *The Brethren*

of “the many names, celebrated for one reason or another, that have sparked the diamond and its environs and that have provided timber for recaptured thrills, for reminiscence and comparisons, and for conversation and anticipation in season and off season: Ty Cobb, Babe Ruth. . . .” There were more than seventy names. “The list seems endless,” Blackmun wrote. He paid homage to the verse “Casey at the Bat,” and other baseball literature. When he had finished, Blackmun circulated his draft.

Brennan was surprised. He thought Blackmun had been in the library researching the abortion cases, not playing with baseball cards.

One of Rehnquist’s clerks called Blackmun’s chambers and joked that Camillo Pascual, a former Washington Senators pitcher, should have been included in the list of greats.

Blackmun’s clerk phoned back the next day. “The Justice recalls seeing Pascual pitch and remembers his fantastic curve ball. But he pulled out his Encyclopedia and looked up his record. He decided Pascual’s 174 wins were not enough. It is difficult to make these judgments of who to include but Justice Blackmun felt that Pascual is just not in the same category with Christy Mathewson’s 373 wins. I hope you will understand.”

Calling Blackmun’s chambers to request that some favorite player be included became a new game for the clerks.

Stewart was embarrassed that he had assigned the opinion to Blackmun. He tried to nudge him into recognizing the inappropriateness of the opening section, jokingly telling him that he would go along with the opinion if Blackmun would add a member of Stewart’s home-town team, the Cincinnati Reds.

Blackmun added a Red.

Marshall registered his protest. The list included no black baseball players. Blackmun explained that most of the players on his list antedated World War II. Blacks had been excluded from the major leagues until 1947.

That was the point exactly, Marshall replied.

Three black players were added—Jackie Robinson, Roy Campanella, and Satchel Paige.¹⁵

This story has since been told and retold, in whole and



COURTESY OF THE CINCINNATI REDS

Potter Stewart thought Harry Blackmun’s opinion in *Flood v. Kuhn* was overwrought and jokingly said he would go along with it if Blackmun added a Cincinnati Red to the catalogue of more than seventy baseball greats in the opening section. Eppa Rixey’s name appeared for the first time in the second draft.

in part, and has become part of the history of *Flood*.¹⁶ Pieces of it soon checked out as true—the bit about Stewart and the addition of a Cincinnati Red, for example. Justice William O. Douglas’s papers, which he had deposited in the Library of Congress, were opened to the public in 1986, just seven years after *The Brethren* was published. Douglas’s file on the *Flood* case included three versions of Blackmun’s *Flood* opinion:

- A version labeled “1st draft” and “Circulated: 5/5/72.” This draft featured a list of only seventy-four “celebrated names,” and not one of them had been a Cincinnati Red.¹⁷
- A version labeled “2nd draft” and “Recirculated 5/25/72.” In this draft, there were twelve more baseball greats on the list, one of whom was Reds pitcher Eppa Rixey.¹⁸
- A copy of the final slip opinion, dated June 19, 1972, with two more names on the list: Jimmie Foxx and Moe Berg. The story of their addition is not relevant here, and is well told (as is the entire story of the *Flood* case) in Brad Snyder’s *A Well-Paid Slave: Curt Flood’s Fight for Free Agency in Professional Sports*.¹⁹

When they were opened to the public during the 1990s, the papers of Justices Marshall and William J. Brennan Jr. revealed *Flood* files that consistently matched the one in the Douglas papers. They included

the same versions of Blackmun's *Flood* opinion, and no more.²⁰

But, while the "1st draft" and "2nd draft" of Blackmun's *Flood* opinion in the files of Douglas, Brennan, and Marshall supported the anecdote about the addition of a Cincinnati Red, they undermined the Blackmun-versus-Marshall story about the addition of Paige, Robinson, and Campanella. The "1st draft" in the justices' files already had all three of those names. All three men were still there in the "2nd draft," and none of the twelve added celebrities was African American. And all three remained in the final slip opinion as well, accompanied by two more white additions, Foxx and Berg. That is, the three black baseball celebrities were there from the beginning, and no African Americans were added or subtracted thereafter. Moreover, the very labeling of the two drafts suggested that the version labeled "1st draft" was, indeed, the first circulated draft, because it had been "Circulated," while the "2nd draft" had been "Recirculated." If some other draft had been circulated prior to the "1st draft" then surely the "1st draft" would have been labeled "Recirculated" too. Furthermore, there was the word of Blackmun himself. He repeatedly acknowledged the provenance of the Rixey addition during his 1995 interviews with Professor Harold Koh for the Justice Harry A. Blackmun Oral History Project, and alluded to it in correspondence.²¹ But he consistently denied the Blackmun-versus-Marshall story in his correspondence (it did not come up during the oral-history interviews).²²

Confirming a positive is, however, not the same as proving a negative. Who knows, perhaps Blackmun did circulate some sort of preliminary draft before the "1st draft" in the justices' files. Finding a needle (the added Cincinnati Red) in the proverbial haystack is one thing; proving there is no needle (the racially exclusive circulated draft) is quite another. In addition, there is good reason for the careful reader to discount Blackmun's statements that there was no dispute with Marshall over African Americans on the list of "celebrated names." Long experience teaches that some public figures sometimes resort to self-serving lapses of memory, artfully mendacious warping of the English language, or simple falsehood when recalling their foibles and mistakes or polishing their legacies. This is not to say that Blackmun lied when he denied the conflict with Marshall. Rather, it is to say that his word standing alone cannot serve in this context, no matter how honest he was in fact. Suffering that skepticism is a legacy for which he and all other public servants can thank prominent members of all three branches

of the federal government who have given inaccurate accounts of their behavior only to have their misstatements discovered and disclosed, to the shame of the institution, if not the individual. And then there is the general imperfection of human memory that occasionally afflicts Supreme Court Justices just as it does the rest of us.²³ There is also some specific cause to suspect Blackmun's recall of matters relating to *The Brethren*. For example, in his oral history, he minimizes his own role as a source for *The Brethren*, saying "One of them did come in and talk to me a little. It was a very short interview."²⁴ In fact, Blackmun's own records show that he met with Armstrong at least twice, and that he looked into and was impressed by Armstrong's background and credentials.²⁵ His appointment book for 1978 shows meetings with Armstrong on Thursday, July 6, at 2:30 P.M., and Friday, September 15, at 3:00 P.M., and notes added to a June 30, 1978, memorandum show the same two meetings.²⁶ Perhaps Blackmun misremembered the number of drafts he circulated in *Flood*, just as he misremembered the extent of his engagement as a source for *The Brethren*, including the number of times he met with Armstrong.

The Blackmun-versus-Marshall story is, however, more susceptible to proof or disproof than many of the stories in *The Brethren*, because the story stands or falls on the content of a document, not on the memory of a person, whether an anonymous source or a named Supreme Court justice.

Recall that in the long second paragraph of the passage from *The Brethren* quoted above, the authors describe in detail Blackmun's preparation of his first draft, quoting from it twice, and concluding, "When he had finished, Blackmun circulated his draft." It is this draft, they report, to which Stewart responded with a request that Blackmun add a Cincinnati Red, and to which Marshall objected on the ground that its list of "celebrated names" lacked African Americans. As Woodward and Armstrong explain in their introduction to *The Brethren*, "[w]here documents are quoted, we have had direct access to the originals or to copies," including "unpublished drafts of opinions."²⁷ Thus, the quotes from the racially exclusive first draft must be from a document that the authors had in hand when they wrote the Blackmun-versus-Marshall story, not merely recitations from an anonymous source who told the authors what some document said. And thus there is no need to independently identify and corner an anonymous source—a practically impossible task, as aspiring story-checkers of *The Brethren* have learned.²⁸ All that is necessary to check the Blackmun-versus-

DAVIES: A Tall Tale of *The Brethren*

Marshall story is to check the document—the draft Blackmun circulated without African-American players. If Blackmun circulated such a document, then Marshall’s reaction and Blackmun’s response are just about as plausible as the eminently believable story of Stewart’s request for the addition of a Cincinnati Red. But if Blackmun did not circulate such a document, then there also was never a reaction against it by Marshall, and thus no such racial dispute between the two justices in *Flood*.

No such document appears, or is referred to, in the other justices’ files. And four features of Blackmun’s papers show that whatever *The Brethren* was quoting from in the story of Blackmun versus Marshall, it was not a racially exclusive draft circulated by Blackmun. Thus, the Blackmun-versus-Marshall story in *The Brethren* is not true.

First, Blackmun’s *Flood* files contain two pieces of correspondence with Justice Potter Stewart which, taken together, reveal the logistical impossibility of a circulated draft predating the “5/5/72” “1st draft” in the papers of Douglas, Brennan, and Marshall. First, on March 20, 1972, Stewart announced his assignment of the opinion for the Court to Blackmun:²⁹

March 20, 1972

No. 71-32—*Flood v. Kuhn*

Dear Chief,

I have asked Harry Blackmun to undertake the writing of the opinion for the Court in this case, which, hopefully, can be a rather brief per curiam.

The Chief Justice

Copies to the Conference³⁰

Blackmun’s notes on *Flood* similarly indicate that when he made the assignment, Stewart did so with a request to keep it short.³¹ Six weeks later, Blackmun wrote to Stewart as follows:

May 4, 1972

Re: No. 71-32—*Flood v. Kuhn*

Dear Potter:

I have a proposed Per Curiam for this case at the Printer. I must confess to you that I have done more than merely follow Toolson with a bare peremptory paragraph. The case, for me, proved to be an interesting one, and I have indulged myself by outlining the background somewhat extensively. As a matter of fact, this has prompted

The Cardinals traded Curt Flood to the Phillies in October 1969. After Commissioner Bowie Kuhn denied his request for free agency, Flood filed a lawsuit and ultimately appealed to the U.S. Supreme Court. Flood sat out the 1970 season and played 13 games for the Senators in 1971 before retiring. A year later, the Supreme Court handed down its decision in *Flood v. Kuhn*.



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

me to conclude that *Federal Baseball* and *Toolson* have a lot to be said for them. When I finally get to the heart of the matter, however, I give it rather summary treatment. The briefs on both sides are good and I rationalize by saying that they deserve at least this much.

Please give the opinion a reading and let me have your general reactions. The case, supposedly, is critical for the baseball world. I am not so sure about that, for I think that however it is decided, the sport will adjust and continue.³²

Thus, on May 4, 1972, Blackmun is warning Stewart that his draft opinion in *Flood* is an elaborate piece of work, more than the brief per curiam Stewart had suggested, and that it is at the printer—meaning not yet ready for circulation, but soon. The next day, May 5, 1972, Blackmun circulates the “1st draft” that can be found in the files of Douglas, Brennan, and Marshall. There would have been no point in sending

the May 4 note to Stewart if Blackmun had already circulated a draft containing “somewhat extensive” background, including the list of “celebrated names.” If he had already circulated such a draft, then Stewart would already have known that he had “done more than merely follow *Tolson* with a bare peremptory paragraph.” But if there had been no earlier circulation, Blackmun might well have wanted to give Stewart a heads-up about the unexpectedly long (and surely unexpected in other ways, including the list of baseball celebrities) “1st draft” that was in the works. And he did.

Second, Blackmun’s papers reveal his perfectly consistent opinion-circulation and recordkeeping practices, which in turn reveal that the only opinions he circulated in *Flood* were the version labeled “1st draft” and “Circulated: 5/5/72” and the version labeled “2nd draft” and “Recirculated: 5/25/72.” Blackmun kept an “opinion log sheet” for every case in which he wrote an opinion for the Court or a substantial per curiam opinion. Each sheet begins with the name of the case and the case number at the top, and lists down the right-hand side of the sheet the dates on which the decision was announced and on which drafts were circulated (for the first draft) and recirculated (for subsequent drafts). The rest of the sheet is devoted to other data about the case, including the dates on which other justices joined Blackmun’s opinion and the circulations of concurrences and dissents by others. During the 1970–71 and 1971–72 terms—Blackmun’s first two terms on the Court, and the period preceding and including the drafting and announcement of his *Flood* opinion—whenever he circulated a draft opinion, he always recorded that circulation on the corresponding opinion log sheet.³³

I have examined every piece of paper in every case file of every justice whose papers are open to the public for every case in which Blackmun wrote an opinion for the Court or a substantial per curiam opinion during the 1970–71 or 1971–72 term. In every case, Blackmun’s opinion log sheet corresponds perfectly to the circulated and recirculated drafts in those files.³⁴ And he was thorough. Consider *NLRB v. Scrivener*,³⁵ like *Flood* a 1971–72-term case, in which his correspondence with Douglas reveals that Blackmun insisted on receipt of a formal “join” letter from Douglas so that his “records [would be] complete.”³⁶

The opinion log sheet for *Flood v. Kuhn* was no exception to Blackmun’s invariably comprehensive and precise record-keeping. It records the same opinions found in the files of the five justices whose papers are open to the public:

- “Circulated: 5/5/72”—the “1st draft” in the justices’ files.
- “Recirculated: 5/25/72”—the “2nd draft” in the justices’ files.
- “Announced: 6/19/72”—the slip opinion in the justices’ files.

Like his *NLRB v. Scrivener* file, Blackmun’s opinion log sheet for *Flood* reflects his penchant for comprehensively accurate record-keeping: it includes a correction to the date of assignment, changing it from March 20, 1972 (the date when Stewart notified the Court that he had assigned the *Flood* opinion to Blackmun), to April 3, 1972 (the date on which the Court’s assignment list formally recorded Stewart’s assignment of the opinion to Blackmun).³⁷

Third, Blackmun’s *Flood* files contain a five-page document consisting of proofreading and cite-checking corrections to Blackmun’s *Flood* opinion, most of which are reflected in the “1st draft.” The document is dated “5/4/72” and signed “JTR” (the initials of John Townsend Rich, one of Blackmun’s clerks at the time). Blackmun might have had a practice of circulating drafts of his opinions to the Court and only afterward enlisting his clerks to proofread and cite-check those opinions. Such a course would have been odd, even silly, and so it should come as no surprise that he did not operate that way. All of the evidence in his case files for the 1970–71 and 1971–72 terms indicates that Blackmun’s clerks squeeze his opinions before the first circulation to the other justices, not after.³⁸ And so Rich’s notes comport neatly with the timing of Blackmun’s May 4 note to Stewart warning him of the “somewhat extensive” draft of his *Flood* opinion that had just gone to the printer. Rich finished proofreading and cite-checking on May 4, Blackmun promptly reviewed Rich’s work and incorporated most of it, then sent the draft off to the printer and warned Stewart of what would circulate the next day—“5/5/72”—as the “1st draft” of *Flood*.

Fourth and finally, Blackmun’s files on the *Flood* case contain only the same three versions of his opinion that are available in the papers of Douglas, Brennan, and Marshall: (1) The version labeled “1st draft” and “Circulated: 5/5/72,” with a list of only seventy-four “celebrated names,” including Paige, Robinson, and Campanella; (2) the version labeled “2nd draft” and “Recirculated 5/25/72,” with twelve more baseball greats on the list, one of whom was Reds pitcher Eppa Rixey and none of whom was

DAVIES: A Tall Tale of *The Brethren*

African American; and (3) the final slip opinion, with Berg and Foxx slipped in.³⁹

In sum, the evidence in Blackmun's papers, combined with the evidence in the papers of Douglas, Brennan, and Marshall, leaves no room for the circulation of a segregated first draft of Blackmun's *Flood* opinion. (Marshall's papers, by the way, contain no hint of any dispute of any sort, racial or otherwise, over Blackmun's list of "celebrated names.") Consider the following:

- If the story in *The Brethren* were true, then Blackmun's May 4, 1972, note to Stewart would not exist, because it reflects Blackmun's knowledge that Stewart had not as of that date seen Blackmun's "somewhat extensive[]" draft in *Flood*.
- If the story in *The Brethren* were true, then Blackmun's opinion log sheet for *Flood* would be inaccurate, even though there is not a single instance in any case from the 1970–71 or 1971–72 terms in which a Blackmun opinion log sheet is inaccurate about any circulation of any draft of any of his opinions.
- If the story in *The Brethren* were true, then Rich would have proofread Blackmun's first circulated draft in *Flood* after that draft had circulated, even though there is not a single instance in any case from the 1970–71 or 1971–72 terms for which a proofread has been preserved where a Blackmun clerk engaged in such nonsensical behavior. They proofed before circulation, not after.
- If the story in *The Brethren* were true, then not a single Justice whose files are open to the public would have saved the racially exclusive draft reported and quoted in *The Brethren*, even though every one of them who participated in the case saved every other draft.
- If the story in *The Brethren* were true, then the Blackmun opinion in the Justices' files labeled "1st draft" and "Circulate: 5/5/72" that includes the three great African American players would have been labeled "2nd draft" and "Recirculated," because it would have been preceded by the segregated draft from which Woodward and Armstrong quote. But there already is a version in each of those files labeled "2nd draft" and "Recirculated"—the one dated "5/25/72" that features only a few additional white players, including Eppa Rixey, the Cincinnati Red.

The bottom line is that Blackmun's first circulation in *Flood* was the "1st draft" dated "5/5/72" that appears in all of the justices' files and that contains the names of seventy-four baseball celebrities, including the great African American players Satchel Paige, Jackie Robinson, and Roy Campanella. Blackmun did not circulate a racially exclusive draft. It follows that any story about Marshall being offended by such a draft is wrong, because the basis for such a story—the circulated draft opinion—does not exist. Marshall and Blackmun certainly had disagreements on matters of race at the time,⁴⁰ but the integration of Blackmun's list of baseball celebrities in *Flood* was not one of them.

* * * *

The fact that *The Brethren* contains inaccuracies should come as no surprise. No lengthy study of the Supreme Court or any other subject is (or likely ever will be) entirely accurate. Authors err. So do archivists, researchers, editors, typesetters, printers, and webmasters. Paper and electronic records can be incomplete or inaccurate. Human sources can be mistaken or misleading. And new discoveries can alter or destroy what were once perfectly reasonable understandings of history.

Finding each other's inaccuracies and misinterpretations and bringing them to light is a service that historians provide to each other, to their subjects, and to the public. This kind of work involves reassessing existing evidence or combining new discoveries with that evidence to present a different—and, the revisionist hopes, more accurate—picture of the past. *The Brethren* is a hard case, because much of its evidence is inaccessible. Its sources are anonymous and confidential.⁴¹ That means there is no way for later students of the Court to return to that evidence, to reassess it, to combine it with new discoveries in order to improve our understanding of the Court. As Professor Walter Murphy observed in a review of *The Brethren*, "The scholar, of course, longs to see the full documents and to hear the tapes of the interviews, not only to check the accuracy of the authors' work but also to test other ideas."⁴² Woodward and Armstrong's approach surely enabled them to uncover many true stories that would otherwise have remained hidden, at least for a time, but it also disabled others from building on their work, at least in the conventional cumulative and synthetic senses. But at the very least, we can still compare a story presented in *The Brethren* with a story based on existing public records and new discoveries, and weigh their merits.

Which brings us to the questions suggested earlier in this article: What document were Woodward and

Armstrong quoting from? Where did it, and the story of Marshall's objection, come from? And did the source or sources for Blackmun-versus-Marshall contribute to any other stories in *The Brethren*? We are unlikely to learn the answers to these questions unless Woodward and Armstrong's research files for *The Brethren* are opened to the public, as Woodward and Carl Bernstein's files for *All the President's Men* and *The Final Days* have been at the University of Texas, with files involving each confidential source remaining sealed until the source's death.⁴³ For *The Brethren*, that is unlikely to happen anytime soon. After all, nearly all of the sources for the book spoke to Woodward and Armstrong on condition of anonymity.⁴⁴ Many of them were young at the time and are likely to be relying for their livelihoods and social standing on their lawyerly reputations for discretion and confidence-keeping for many years yet. It may well be that Woodward and Armstrong would prefer to endure whatever small doubts might be raised by this article rather than break their promises to the source or sources of the Blackmun-versus-Marshall story.⁴⁵

In the meantime, the careful reader of *The Brethren* might consider, on the one hand, that respected observers of the Court have concluded that "[t]he accounts in *The Brethren* are factually accurate on nearly every point"⁴⁶ and "in many instances, Blackmun's case files attest to its accuracy,"⁴⁷ and, on the other hand, that in at least one instance—the story of Blackmun-versus-Marshall in *Flood*—the book is not accurate. For students of the Court, then, perhaps the best approach to *The Brethren* for the time being is the one to which President Ronald Reagan treated President Mikhail Gorbachev: Trust, but verify.⁴⁸

Editor's Note [by Clare Cushman, managing editor, *Journal of Supreme Court History*]

Ross Davies, the author of "A Tall Tale of *The Brethren*," sent a draft of the article to Bob Woodward and Scott Armstrong in September 2007, along with an invitation:

The enclosed article (which is scheduled to appear in the spring issue of the *Journal of Supreme Court History*) suggests that one passage in your book, *The Brethren*, is not accurate. If I have gone astray in any way, I would be grateful to hear about it from you before we go to press. Also, I am told by the editor of the *Journal* that she would be happy to consider printing a reply from either or both of you.

I sent a follow-up invitation of my own to Woodward and Armstrong early in 2008, and postponed publication of the article to our summer issue in order to give them plenty of time to draft a reply. Armstrong expressed an interest in replying, but in the end nothing

was forthcoming from either him or Woodward. It would have been nice to include their perspective here and now, but it appears that we will have to wait for a later issue of this *Journal*, or for another forum. ■

Notes

This article was published originally in the *Journal of Supreme Court History* 33, no. 2 (July 2008): 186–99.

Thanks to Adam Bonin, Bennett Boskey, Ofemi Cadmus, Susan Davies, Vincent Gaiani, Suzanne Garment, David Garrow, Paul Haas, Dennis Hutchinson, Anthony Lewis, G. Edward White, Diane Wood, participants in a Robert A. Levy Fellow Workshop, and the George Mason Law & Economics Center.

1. *The Brethren: Inside the Supreme Court*, 190–91 (1979) (hereafter *The Brethren*).
2. 407 U.S. 258 (1972).
3. Brad Snyder, *A Well-Paid Slave: Curt Flood's Fight for Free Agency in Professional Sports* 301 (2006) (hereafter *Well-Paid Slave*).
4. Earlier profiles of the Court, such as Drew Pearson and Robert S. Allen's *Nine Old Men* (1936) and J. Harvie Wilkinson's *Serving Justice: A Supreme Court Clerk's View* (1974), had not been anywhere near as revealing of its interior workings.
5. See, e.g., Anthony Lewis, "Supreme Court Confidential," *New York Review of Books*, 7 February 1980 (hereafter "Supreme Court Confidential"); "The Evidence of *The Brethren*: An Exchange," *New York Review of Books*, 12 June 1980 (hereafter "The Evidence of *The Brethren*"); John G. Kester, "Breaking Confidences," *The Washingtonian*, February 1980; see also Dennis J. Hutchinson, *The Man Who Once Was Whizzer White*, 384–86 (1998) (hereafter *Whizzer White*); Adrian Havill, *Deep Truth: The Lives of Bob Woodward and Carl Bernstein*, 130–35 (1995).
6. See, e.g., *Landell v. Sorrell*, 382 F.3d 91, 109 (2d Cir. 2004), rev'd 126 S. Ct. 2479 (2006); *Larsen v. U.S. Navy*, 346 F. Supp. 2d 122, 132 n. 5 (D.D.C. 2004).
7. See, e.g., Neal Devins, "Should the Supreme Court Fear Congress?" 90 *Minn. L. Rev.* 1337, 1341 (2006); Linda Greenhouse, "How Not to Be Chief Justice," 154 *U Pa. L. Rev.* 1365, 1369 (2006); James I. Brudney and Corey Ditslear, "Canons of Construction and the Elusive Quest for Neutral Reasoning," 58 *Vand. L. Rev.* 1, 44 (2005); Clarke D. Forsythe and Stephen B. Presser, "The Tragic Failure of *Roe v. Wade*," 10 *Tex. Rev. L. & Pol.* 85, 127 (2005); Sanford Levinson, "The Pedagogy of the First Amendment," 52 *UCLA L. Rev.* 1359, 1361 (2005); see also G. Edward White, *The American Judicial Tradition* chs. 13 and 14 and 523 n. 124 (3d ed. 2007) (describing *The Brethren* as "a source on the internal history of the Burger Court that needs to be used with great care"). A search for "woodward/5 armstrong/5 brethren" in Westlaw's jlr database of law reviews and similar periodicals on March 30, 2007, turned up 492 documents.
8. See, e.g., David J. Garrow, "Breaking Silence and Legal Ground," *Los Angeles Times*, 23 January 2007 (reviewing Jan Crawford Greenburg's *Supreme Conflict*); Rodger Citron, "A Peek Into the Marble Palace," *Legal Times*, 29 May 2006 (reviewing Todd Peppers's *Courtiers of the Marble Palace*); Kim I. Eisler, "Truth Teller or Sore Loser?" *Legal Times*, 27 April 1998 (reviewing Edward Lazarus's *Closed Chambers*).
9. Carl Bernstein and Bob Woodward, *All the President's Men* (1974); Bob Woodward and Carl Bernstein, *The Final Days* (1976).
10. Victor S. Navasky, "The Selling of the Brethren," 89 *Yale L.J.* 1028, 1030 (1980).
11. Compare, e.g., *The Brethren* at 357 et seq. with *Whizzer White* at 434–35, 463–65 (1998); Bruce Allen Murphy, *Wild Bill*, ch. 38 (2003).
12. See, e.g., Walter F. Murphy, "Spilling the Secrets of the Supreme Court," *Washington Post Book World*, 16 December 1979, at 11.
13. Linda Greenhouse, *Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey*, 254 (2005) (hereafter *Becoming Justice Blackmun*).
14. Mark V. Tushnet, *Making Constitutional Law: Thurgood Marshall and the Supreme Court, 1961–1991* at viii (1997) (hereafter *Making Constitutional Law*).
15. *The Brethren* at 190–91.

DAVIES: A Tall Tale of *The Brethren*

16. See, e.g., Andrew O'Toole, *The Best Man Plays* 97 (2003); David Greenberg, "Baseball's Con Game," *Slate*, 19 July 2002; Roger I. Abrams, "Before the Flood," 9 *Marq. Sports L.J.* 307, 311 (1999); Tony Mauro, "Would the Court Go to Bat for Baseball?" *Legal Times*, 29 August 1994; Chad Millman, "Bench Player," *Sports Illustrated*, 18 April 1994; Max Vobiscum, "The Supreme Court's Sports Page," (Passaic County, N.J., Bar Association) *Reporter*, Aug.–Sept. 1980, at 40; "Games Justices Play," *Newsweek*, 10 December 10, 1979, at 88.
17. *Flood v. Kuhn*, 1st Draft at 4–5 (5 May 1972), in Papers of William O. Douglas, Library of Congress, Manuscript Division, box 1561 (hereafter Douglas Papers).
18. *Flood v. Kuhn*, 2d Draft at 4–5 (25 May 1972), in Douglas Papers.
19. *Well-Paid Slave* at 305–6.
20. *Flood v. Kuhn*, 1st Draft at 4–5 (5 May 1972) and *Flood v. Kuhn*, 2nd Draft at 4–5 (25 May 1972), in Papers of William J. Brennan Jr., Library of Congress, Manuscript Division, box 1:268, folder 2; Papers of Thurgood Marshall, Library of Congress, Manuscript Division, box 87, folder 10 (hereafter Marshall Papers). The *Flood* file in the papers of Justice Lewis F. Powell Jr. contained no draft opinions at all. Lewis F. Powell Jr. Papers, Washington and Lee University School of Law, Lewis F. Powell Jr. Archives, box 148. Powell determined early on in the deliberations over the *Flood* case that his ownership of shares of Anheuser-Busch, which owned the St. Louis Cardinals baseball team, a respondent in *Flood*, obligated him to disqualify himself, and he did so. Memorandum to the Conference (21 March 1972), in Powell Papers, box 148. The papers of the other members of the Court at the time—Chief Justice Warren Burger and Justices Potter Stewart, Byron R. White, and William H. Rehnquist—are not yet open to the public.
21. The Justice Harry A. Blackmun Oral History Project 184, 186, 293 (1994–95) (hereafter Oral History); Harry A. Blackmun to Jim Caple, 11 February 1997, in Papers of Harry A. Blackmun, Library of Congress, Manuscript Division, box 145, folder 3 (hereafter "Blackmun Papers").
22. See, e.g., Harry A. Blackmun to Daniel Crystal, 9 October 1980, in Blackmun Papers, box 145, folder 3; Harry A. Blackmun to Jim Caple, 11 February 1997, in Blackmun Papers, box 145, folder 3.
23. Compare, e.g., Justice Thurgood Marshall, Memorandum to the Conference (4 October 1984), in Blackmun Papers, box 1405, folder 14, reprinted in "NAACP Recusals," 10 *Green Bag* 2D 93, 93–99 (2006), with *Milliken v. Bradley*, 418 U.S. 717, 722 (1974); *id.* at 781 (1974) (Marshall, J., dissenting); *Meek v. Pittenger*, 421 U.S. 349, 356 n.5 (1975). Oral History at 292.
25. See Memorandum from "sjb" to "Mr. Justice" (17 January 1978), in Blackmun Papers, box 1435 ("sjb" were the initials of Blackmun's secretary, Shirley J. Bartlett).
26. See 1978 Appointment book, in Blackmun Papers, box 61; memorandum from "sjb" to "Mr. Justice" (June 30, 1978), in Blackmun papers, box 1435; see also *Becoming Justice Blackmun*, 153.
27. *The Brethren*, 4.
28. See, e.g., "Supreme Court Confidential"; "The Evidence of *The Brethren*"; David J. Garrow, "The Supreme Court and *The Brethren*," 18 *Const. Commentary* 303 (2001); see also, e.g., Leonard Garment, *In Search of Deep Throat*, chs. 4 and 5 (2000).
29. Stewart had the privilege of assignment because he was the senior justice in the majority at the time.
30. Memorandum from Justice Potter Stewart to Chief Justice Warren Burger (20 March 1972), in Douglas Papers, box 1561.
31. Handwritten note dated "3-20-72," in Blackmun Papers, box 145, folder 1 ("[PS [Potter Stewart] Asks me to PC [per curiam] this essentially along t[he] lines of Toolson & n[ot] too long").
32. Memorandum from Justice Harry A. Blackmun to Mr. Justice Stewart (4 May 1972), in Blackmun Papers, box 145, folder 2.
33. This is not to suggest that in later years he did not continue this practice. Rather, it did not seem necessary to go beyond the 1970–71 and 1971–72 terms for the purposes of this article.
34. Compare Justice Blackmun's opinion log sheets for the 1970–71 and 1971–72 terms, in Blackmun Papers, boxes 118, 133, with the corresponding case files in the papers of Justices Douglas (boxes 1507, 1511, 1516, 1518, 1542, 1543, 1545, 1547, 1549, 1551, 1561), Brennan (boxes 1:233, 1:236, 1:239, 1:240, 1:244, 1:246–1:248, 1:257, 1:258, 1:259, 1:261, 1:263, 1:265, 1:267, 1:268, 1:273, 11:3), Marshall (boxes 80, 81, 83–85, 87, 90, 91), Blackmun (boxes 120–22, 124, 125, 127, 129, 130, 134–40, 142, 145), and Powell (boxes 146–49).
35. 405 U.S. 117 (1972).
36. Memorandum from Justice William Douglas to Justice Harry A. Blackmun (16 February 1972) and memorandum from Justice Harry A. Blackmun to Justice William Douglas (16 February 1972) in Blackmun Papers, box 142. When asked recently about Blackmun's papers, Justice Ruth Bader Ginsburg noted that "he was a great saver; he didn't toss out anything." "An Open Discussion with Justice Ruth Bader Ginsburg," 36 *Conn. L. Rev.* 1033, 1042 (2004). This is not to say that he knew all, saw all, and accurately recorded all that he knew and saw—see, e.g., *id.* at 1042 (recalling that he mistakenly noted an advocate had worn a red dress at oral argument when in fact she had worn black)—but rather that his compilations of documents relating to particular cases can generally be counted on to be complete.
37. See Assignment List (3 April 1972), in Marshall Papers, box 75.
38. See generally Blackmun Papers, boxes 119–31, 134–47.
39. See Blackmun Papers, box 145, folder 1.
40. See, e.g., *Palmer v. Thompson*, 403 U.S. 217 (1971); *Palmer v. Thompson*, 1st Draft at 3 (29 April 1971) (Blackmun, J., concurring), in Blackmun Papers, box 124, folder 10; *Becoming Justice Blackmun* at 67–68; see also Deborah C. Malamud, "Intuition and Science in the Race Jurisprudence of Justice Blackmun," 26 *Hastings Const. L.Q.* 73, 84–88 (1998); Henry J. Abraham, *Justices, Presidents, and Senators: A History of the U.S. Supreme Court Appointments from Washington to Clinton*, 230–33 (rev. ed. 1999).
41. This approach to studying the Court has shown signs of enduring popularity in recent times. See, e.g., Jan Crawford Greenburg, *Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court* 321–22 (2007); Jeffrey Toobin, *The Nine: Inside the Secret World of the Supreme Court* 342 (2007).
42. Walter F. Murphy, "Spilling the Secrets of the Supreme Court," *Washington Post Book World*, 16 December 1979, at 10. Scholars should be cautious, however, about exaggerating the importance of source-transparency in their work. Plenty of important and reputable scholarship generated in the academy shares *The Brethren's* source-opacity. Consider, for example, John W. Kingdon's highly regarded study of decision-making in the executive and legislative branches of the federal government, *Agendas, Alternatives, and Public Policies* (2d ed. 2003). Kingdon's book is based largely on interviews with "many congressional staffers, administration appointees, civil servants, lobbyists, journalists, researchers, and consultants" conducted during the late 1970s—the same period in which Woodward and Armstrong were doing their research for *The Brethren*. "I guaranteed [the interviewees] their anonymity," writes Kingdon, "so cannot acknowledge their help by name. But this book could not have been written without their generous cooperation." *Id.* at xvii, 232–33. Just like *The Brethren*. See also, e.g., Bennet Boskey, "Justice Reed & His Family of Law Clerks," in Bennet Boskey, *Some Joys of Lawyering*, 14 n. 4 (2007) (observing "that the claims of history, journalism, and biography strongly press against principles of privacy, confidentiality and ethics. There is not always a simple answer to questions of how much should be published how soon.").
43. See *The Woodward and Bernstein Watergate Papers: About the Papers*, available at www.hrc.utexas.edu/exhibitions/web/woodstein/about/ (last visited 20 April 2008); Lee Hockstader, "Watergate Papers Sold for \$5 Million," *Washington Post*, 8 April 2003, at C1; see also, e.g., Bob Woodward, *The Agenda: Inside the Clinton White House*, 12 (1993).
44. *The Brethren* at 3–4.
45. See *Cohen v. Cowles Media Co.*, 501 U.S. 663 (1991); but see "The Evidence of *The Brethren*."
46. *Making Constitutional Law* at viii.
47. *Becoming Justice Blackmun* at 254.
48. William Safire, "Nyet Problemy on Snow Jobs," *New York Times*, 3 January 1988, § 6, at 6 (Reagan: "Though my pronunciation may give you difficulty, the maxim is *doveryai no proveryai*. 'Trust but verify'").

BASEBALL AND LAW

A Tale of Two Umpires

When Al Salerno and Bill Valentine Got Thrown Out of the Game

Mark Armour

BASEBALL TRAVELED through rough waters beginning in the late 1960s, as it navigated increasing player unrest and the growing power of their union. Court cases, strikes, hearings, lawsuits—it was challenging to follow baseball in this period without a law degree. The off-field headliners—Curt Flood, Bowie Kuhn, Marvin Miller, Andy Messersmith, Charlie Finley—are as famous as the players who were starring on the field. A legal battle that has been largely forgotten was waged by two American League umpires, men who became famous for a couple of years before sinking back into obscurity. After researching the details of their story, I wondered what had become of the two men in subsequent years. How had their lives turned out?

Alex Salerno was born and raised in Utica, New York, and became a schoolboy pitcher of local renown. He signed with the Red Sox in 1949 and spent a season in their organization before serving two years in the army. He hurt his arm in a truck accident in Korea and did not pitch professionally again. Salerno returned to Utica for a few years before enrolling in the Al Somers Umpire School in Daytona, where he graduated first in his class. He spent just five years in the minors, including two in the Pacific Coast League, before reaching the American League in late 1961 as a 30-year-old. In just his sixth major-league game, he was umpiring at third base when Roger Maris hit his record-breaking 61st home run.¹

Reaching the major leagues as an umpire has always been a difficult journey—there are a limited number of jobs, and an umpire might work twenty-five years or more once he reached the majors. For most of the 1960s, when there were twenty major-league teams and forty umpires, there were generally about two or three openings per year.² These slots were usually filled from one of the Triple-A leagues, by someone considered to be one of the very best umpires in the minor leagues. In 1962 the American League had one “rookie” umpire—Al Salerno.

Bill Valentine, from Little Rock, Arkansas, attended a local umpire school right after high school and was just 18 when he got his first job in Organized Baseball in 1951. He spent twelve years in the minor leagues, including seven in the Texas League and two in the

PCL, before joining the AL staff in 1963. He was promoted at the instigation of Kansas City owner Charlie Finley, who had met him on a trip to Little Rock the year before. Just 30 years old, Valentine looked to have a long career ahead of him—after all, he was twenty-five years from the league’s retirement age.³

As full-fledged major-league umpires, Salerno and Valentine then had several fairly typical seasons—generally drawing attention only when there was an on-field melee of some sort. Salerno had a notable run-in with Orioles manager Hank Bauer in 1964, which led to fines for Bauer and pitcher Steve Barber. Twins manager Sam Mele appeared to punch Valentine in 1965, leading to a five-game suspension. Nothing out of the ordinary for an umpire, and both men were honored with All-Star Game assignments—Salerno in 1964 and Valentine in 1965.

By 1968 the two men were on the same four-man crew for the first time, joining (in early June) veteran chief Jim Honochick (later more famous for his Miller Lite commercials with Boog Powell) and Emmett Ashford, the junior man in service time, who just two years earlier had become the majors’ first African American umpire.

In September 1968, American League president Joe Cronin fired umpires Al Salerno and Bill Valentine, telling the media that “they’re just bad umpires, that’s all.” Only days earlier, Salerno and Valentine had communicated with AL umpires about a meeting with a union lawyer. NL umpires had unionized in 1963 and enjoyed higher salaries and benefits than did their AL counterparts.



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

ARMOUR: A Tale of Two Umpires

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



Jim Honochick, who in 1968 had nearly 20 years' service as an American League umpire. By 1968, Salerno and Valentine joined him and Emmett Ashford on the same four-man crew. That the league would assign Salerno and Valentine to the same crew and with a junior umpire, Ashford, suggests that its estimation of their competence was not as low as Cronin would claim after he dismissed them later that season.

On September 15, the four umpires concluded a routine series in Cleveland. The next morning Salerno was awakened in his hotel room by a phone call from American League president Joe Cronin. Salerno was hoping for this call, anticipating the news that he would work the upcoming World Series. Instead, Cronin told him he was fired, effective immediately. Stunned, Salerno went to find Valentine, who was just hanging up the phone. He too had been fired. Both men were told they were being let go because they could not do their jobs. "They're just bad umpires, that's all," Cronin told the press.⁴

Joe Cronin held the post of AL president for fifteen years, beginning in 1959. The role of league president was ill defined but tended to involve a lot of consensus building; the real power was wielded by the league owners. The one exception was with the league's umpiring staff, over which the league office held total control. The league hired the umpires, arranged them into four-man crews, and told them what to wear, how to position themselves on the field, and how to interpret the rule book.

Helping Cronin with this responsibility was Cal Hubbard, a longtime umpire who had been the league's umpire-in-chief since 1954. Hubbard scouted prospective umpires in the minor leagues and watched AL games to help evaluate the current staff. When an umpiring crew worked in Boston, where the league had its offices, the umpires would visit with Hubbard and Cronin, where they might receive feedback on their performance. Cronin had never fired an umpire before, and he would never again. His reason for firing these two was unequivocal: They were incompetent.

Salerno and Valentine told a different story. As it happened, the two men were leading an effort to organize the AL umpires. Their National League coun-

terparts had formed a union in 1963, and on September 12—just four days before their dismissals—Salerno had attended a meeting in Chicago with a few NL umpires and the union's lawyer. The umpires had told Salerno that the AL could join their union if all twenty umpires agreed. The next day Salerno and Valentine had sent notes to the five AL crew chiefs about the meeting. Three days later, both men were fired.

When asked about this unusual coincidence, Joe Cronin expressed surprise—he had "no knowledge" of any desire by the umpires to organize, insisting that the two umps were "never first class at any one time."⁵

Suffice it to say that no one believed Cronin's claim of incompetence. "To Cronin's credit," wrote Shirley Povich, "this was not a snap judgment. In Salerno's case it took the AL President seven years to arrive at it; in Valentine's case, six years." Sounding the same theme, Red Smith wrote that Cronin "has to be one of the least perceptive or most indulgent employers this side of Utopia." But most writers were more direct. "Cronin draws his ideas from the philosophy of William McKinley," wrote Bob August in the *Cleveland News*. "Today he looks foolish, a baseball dinosaur lumbering through the 1960's. He made a mistake and it was a beaut."⁶

Until the terminations, no one had paid much attention to the salary and benefits of the major-league umpires. They did now. After five years with an established union, the NL umpires at the high and low end made nearly 50 percent more in salary than did their AL counterparts, received a larger per diem and mileage allowance, and had better pension benefits with lower vesting levels.⁷ All of this had been achieved without public rancor. These facts only added to the growing sentiment that the "junior circuit" was the inferior league in every way. The NL had all of the black stars, had won the race to place teams in California, had much higher attendance figures, and won the All-Star Game every year. Now, it turned out, the AL stiffed their umpires and kept incompetent ones around for years on end.

The firings also came at an unusual time, as the league was expanding in 1969 and would need four new umpires. Now they needed six. Bill Kunkel and Jake O'Donnell, who were both working in the Southern Association, were hired immediately and worked with Honochick and Ashford in Cleveland on September 17. The league claimed that they wanted the two new umpires to get some experience before the season ended, which accounted for the mid-September change.

Could Salerno and Valentine have been incompetent? This is a difficult charge to prove, then or now,

although there is a myriad of evidence that the umpires were not incompetent, that in fact they were very good at their jobs. Both men had received regular increases in pay and claimed to have never received a negative performance review. Cronin later admitted to pay increases even when other umpires were not getting them. Salerno had received an unscheduled bonus after the 1967 season, just one year before his dismissal.

Several managers publicly defended the umpires, including Dick Williams (who had had run-ins with both men), Hank Bauer, Al Lopez, and Alvin Dark. More tellingly, Valentine and Salerno had been assigned to the same crew and were joined by Ashford, a fairly junior umpire. It seems unlikely that the league would place its two worst umpires together.

Valentine noted that he had been given the assignment to umpire home plate in the crucial final game between the Tigers and Angels in 1967. Valentine has a point, though not precisely the one he made. There were two big series that final weekend. In Detroit, there were doubleheaders on the final two days, and the umpire rotation was rearranged so that veteran Larry Napp worked the plate in two of the games—Valentine was not shifted, but he got his scheduled game in the finale. In Boston, the Red Sox played two games against the Twins. Here the crew schedule was rearranged so that Nestor Chylak umpired the plate in the final game, in lieu of Marty Springstead (who was in his second season).⁸ Given that the league was willing to shift the assignments, Valentine getting the plate on October 1 is telling.

If Cronin's intention was to pressure his umpires not to organize, his efforts backfired decisively. The day after the regular season, just two weeks after the dismissals, the remaining major-league umpires met in Chicago. The NL umpires voted unanimously to admit the AL umps into their group, to be renamed the Major League Umpires Association. The arbiters also considered striking the 1968 World Series to protest the firings. Salerno and Valentine attended the meeting and urged the umps to work, and the union's lawyer persuaded them to do so. In the offseason the union met with Cronin to begin the process of working out a relationship, but Cronin would not agree to reinstate the fired umps.⁹

In January 1969, the new umpires union filed an unfair-labor-practice claim with the National Labor Relations Board (NLRB). In a separate action, in September 1969, Salerno and Valentine filed a \$4-million suit in federal court in the Southern District of New York against Major League Baseball, Joe Cronin, and

Al Salerno received an unscheduled bonus after the 1967 season, and he and Bill Valentine were publicly defended by several high-profile managers—Dick Williams, Hank Bauer, Al Lopez, Alvin Dark—after they were fired a year later. Salerno and Valentine filed a lawsuit against MLB, Joe Cronin, and the American League and lost. The unfortunate turn of events for the two of them defined Salerno's life to the end.



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

the American League, alleging federal antitrust violations and defamation of character. The district court dismissed the lawsuit for lack of jurisdiction—prior Supreme Court cases had held baseball to be exempt from federal antitrust laws. The attorneys for the umpires immediately appealed. Meanwhile, in December 1969 the NLRB agreed to hear the union's charge.

A loss in either action—the federal lawsuit or the unfair-labor charge with the NLRB—could have influenced the Supreme Court to reconsider baseball's antitrust exemption. In the spring of 1970, the American League negotiated a confidential settlement with the new union, which required that both legal actions be dropped. In exchange the umpires would receive full reinstatement at a salary of \$20,000 per year—the current rate for their experience level but \$8,000 more than they made at the time of their dismissal. There was a catch: The umps would have to work a brief probationary period in the minor leagues to make sure they had “improved their game,” a stipulation all agreed was a face-saving gesture on the part of Cronin.¹⁰

Valentine agreed to the deal, but Salerno did not, claiming he had gone into debt fighting the case. Just prior to the scheduled hearing, the AL sweetened the pot: \$20,000 in back pay and full pension credit for their missed service time. Again Salerno balked. Valentine was sufficiently alarmed to get in his car and drive from Little Rock to Utica, where he offered Salerno \$10,000 of his share. The league also offered Salerno \$37,500 without reinstatement. Salerno's attorney, Joseph Kellner, advised his client that he would win reinstatement in the hearing and that he would likely win his lawsuit as well. Salerno did not believe the league would follow through on their promise to promote the umps from the minor leagues, and he wanted at least \$100,000 to drop the suit. Valentine's lawyer

ARMOUR: A Tale of Two Umpires

tried to get the AL to deal with him separately, even at lesser terms. The league would not.¹¹

The hearings took place in Boston over nine days in July 1970. Supporters of the umpires included several former colleagues, plus managers Al Dark, Eddie Stanky, and Dick Williams, all of whom testified that the two were good umpires, among the top half in the league. Valentine broke down when he recalled the phone call from Cronin telling him he was a lousy umpire. Salerno spoke for two hours about his efforts to organize, which he said were not a secret to anyone around the league. Cronin stuck to his story, claiming that the umps were hotheaded and arrogant and, more importantly, that he had no idea that the umpires wanted to unionize. Cal Hubbard, Cronin's assistant, told the same story. When asked on the stand if he would recommend the two umpires for positions in the minor leagues or in the National League, Cronin answered "Yes."¹²

In November 1970 the NLRB ruled in favor of the American League, claiming that the umpires had not adequately proven that they were fired for their union activities. The decision read that, although many umpires backed Salerno and Valentine in contending that the union activities were well known, no umpire would admit to telling Cronin or Hubbard. Without that link, there was no evidence "beyond mere suspicion or surmise" that Cronin knew the umpires were unionizing.¹³

As for the lawsuit, the umpires' only real hope was to have the Supreme Court hear their case. Oliver Wendell Holmes, writing for a unanimous Court in *Federal Baseball v. National League*, ruled baseball exempt from the Sherman antitrust act in 1922. In 1953, the Court upheld Holmes's decision in *Toolson vs. New*

York Yankees. In denying the appeal of the dismissal of Salerno and Valentine's federal lawsuit, Second Circuit Judge Henry Friendly wrote, "We fully acknowledge our belief that *Federal Baseball* was not one of Mr. Justice Holmes's happiest days," but concluded that only the Supreme Court could undo the decision. "While we should not fall out of our chairs with surprise at the news that *Federal Baseball* and *Toolson* had been overruled, we are not at all certain the Court is ready to give them a happy dispatch." Moreover, Friendly believed that Salerno and Valentine did not make enough of an antitrust claim, raising doubt that they could win their case even without baseball's antitrust exemption.¹⁴

As Brad Snyder outlined in his wonderful book on Curt Flood, the Supreme Court was highly unlikely to hear the *Salerno* case. If the court were to consider a challenge to *Federal Baseball* it would want a case where the facts were not in dispute (as they were in *Salerno*)—and a case of great national interest. After denying the petition to hear *Salerno* in January 1971, a few months later the court chose to hear *Flood v. Kuhn*, a much more appropriate case. (Appropriate or not, in July 1972 the court ruled against Flood in a 5–3 majority opinion that refused to reconsider the logic of *Federal Baseball or Toolson*.)¹⁵

Although there were a few more less noteworthy challenges, the story had effectively come to an end. Al Salerno, a veteran of 1110 games, and Bill Valentine, of 947, were finished as major-league umpires. But as neither man had reached 40 years of age, there were still lives to lead.

In 2007, thirty-nine years after their dismissals, I sought out the two men for interviews. Valentine was easy to find, as he was the general manager of the

After his dismissal as an American League umpire, Bill Valentine returned to Little Rock, where he worked in broadcasting and for the Republican Party. For thirty-three years (1976–2009) he was general manager of the Arkansas Travelers. "I would like to thank Joe Cronin for giving me my start in this line of work," he would say at banquets.



COURTESY OF BILL VALENTINE

The Baseball Research Journal, Fall 2009

Arkansas Travelers in Little Rock. When I told him that I was writing a book about Joe Cronin he laughed. “Why would you want to do a thing like that?” After umpiring, Valentine had returned home to Little Rock and held a variety of jobs, including working with the local Republican Party and broadcasting. He became GM of the Travelers in 1976 and held the job for thirty-three years, retiring in early 2009. He has been inducted into both the Texas League Hall of Fame and the Arkansas Sports Hall of Fame and has received several minor-league Executive of the Year awards. At banquets, he used to say, “I would like to thank Joe Cronin for giving me my start in this line of work.” His wife, he noted, would tease him if he screwed up around the house. “Cronin was right, you are incompetent.”

Valentine described Cronin as a big man who drove a big car and smoked big cigars. He had no sympathy for umpires and reacted to grievances by suggesting that the umpire just quit. He felt that Cronin had lost his temper, reacted rashly, and was too stubborn to back out. But, all things considered, life had turned out pretty great, better in fact than it would have been had he remained an umpire. If he had been in Cronin’s shoes, he might very well have done the same thing. When I asked about the proposed deals before the hearing, he said, “Al’s lawyer told him we could make a lot of money. I just wanted to umpire.” He gave me Salerno’s phone number, and asked me to pass along his best wishes.

I reached Salerno at home in Utica, where life had not worked out as well. A lot had gone wrong in the previous thirty-nine years, and Salerno blamed Cronin for all of it. The heart attack at age 48, and the six subsequent operations, which he detailed for me. Sporadic employment, the lost marriage in the 1980s, all because he lost the only job he ever wanted. “My wife got sick of my complaining,” he said. He asked me how Valentine was doing and I reported that he seemed very happy. “He’s got money in his pocket, so of course he’s happy,” Salerno said.

Anticipating a question I feared asking, he offered that “the deal was a sham, they would never have allowed us back in the major leagues.” In the ensuing years Salerno had never stopped fighting the case, and he remained bitter at the current umpires who had not fought for him. He did not have enough service time to receive a pension, though the action he took led to a lowering of the minimum service time for other umpires. He was bitter at the legal system. “I served my country, and my country screwed me over.” When I spoke with him, he had just written to John Roberts,

the new chief justice of the U.S. Supreme Court. Nothing had worked, but he would keep trying.

“I am just waiting to crawl in my hole,” he said.

I had called Salerno in order to help me, but the tables had turned—it was now he who wanted help from me. He needed me to tell his story, to tell the truth, to help spread the word that he had been mistreated. I assured him that I planned to tell the entire story and that the pro-Cronin side had never really caught on with anyone. But the story might gain him some new sympathizers, though not necessarily any tangible benefit. I tried to get him to talk about other things, his favorite memories of umpiring, his life in the minor leagues, his hometown, but inevitably the conversation came back to his grievance.

He called me a few times after our original conversation and sent me a couple of packets of signed photos, affidavits, and letters. He treated me kindly, perhaps even deferentially. The last time we spoke I told him I would call him back when I returned from a family vacation. Before I could do so, on August 5, 2007, he died, having spent nearly four decades a bitter and defeated man. How much of his suffering was related to second-guessing himself over his legal challenge will remain unknown.

The two men were dealt the same cards, but the story of how they handled their similar fates might be a lesson for us all. Charles Dickens once wrote: “Reflect upon your blessings, of which every man has plenty, not on your past misfortunes, of which all men have some.” Sadly, Salerno let his misfortune consume and define him, to the very end of his life. ■

Notes

This article is based on a presentation at the annual SABR convention in July 2009.

The author would like to thank Brad Snyder and Craig Calcaterra for their review of the legal language in this article.

1. Al Salerno, interview with author, July 2007.
2. Umpiring rosters from retrosheet.org.
3. Bill Valentine, interview with author, June 2007.
4. *Chicago American*, 18 September 1968; *The Sporting News Official Baseball Guide 1969*, 195.
5. *New York Times*, 18 September 1968.
6. U.S. Senator Charles E. Goodell (N.Y.), news release, 16 April 1969.
7. *The Sporting News Official Baseball Guide 1969*. Goodell news release.
8. Game logs from retrosheet.org.
9. *The Sporting News Official Baseball Guide 1971*, 283–87.
10. Valentine; Salerno.
11. *Ibid.*
12. *The Sporting News Official Baseball Guide 1971*.
13. *Ibid.*
14. See Friendly’s decision at <http://openjurist.org/429/f2d/1003/salerno-v-american-league-of-professional-baseball-clubs-e>.
15. Brad Snyder, *A Well-Paid Slave: Curt Flood’s Fight for Free Agency in Professional Sports* (New York: Viking, 2006).

BAD PITCHING

The Deadball Era's Worst Pitching Staff

Tom Ruane

AT FIRST I THOUGHT it was a misprint. Right in the middle of the Deadball Era—the years of the Hitless Wonders, small ball and Bill Bergen—the 1911 Boston Nationals' pitchers allowed 1,021 runs scored.¹ Even for 1911, the high-water mark for offense in that era, it was a phenomenal number of runs. Look at it this way: No other team from 1901 to 1919 scored or allowed even 900 runs, and this would remain the twentieth-century record for most runs allowed in a season until 1929. In other words, this record would stand until the very end of a decade famous for its offense.

So how did this happen? How did a team in the middle of an era known for its dearth of hitting give up so many runs? Usually, they result from a combination of three factors: bad pitchers, a hitter-friendly park, and some changes to the game or equipment favorable to offense. Let's take the last one first. The first edition of the Macmillan *Baseball Encyclopedia* contained a wonderful series of charts right at the beginning, in a chapter entitled "Baseball: The Changing Game."² One of the charts showed the runs per game through the years and had a small spike centered around 1911. It would have been an offensive drought during the 1920s, but for the times it caused quite a bit of comment. A lively ball introduced that season was blamed on the increase in scoring. The following excerpt from a postseason article in the *Chicago Tribune* was typical:

The lively ball introduced into baseball this year revealed itself more forcibly than in any other way in the quantity of so-called slugging matches which occurred during the championship season. Taking fifteen hits by one team in a single game as a basis for comparison, there were almost twice as many swatfests in the National League in 1911 as there were the year before.

Fifteen or more hits were piled up in the present year in seventy-four National league games, while the record for 1910 showed only thirty-nine games in which one team made that many swats.³

One weird thing about this offensive increase in the National League: It was entirely accounted for by

Boston pitchers and hitters. Here are the runs scored in the National League in the two years:

Table 1.

| Year | G | R | R/G |
|------|-----|-------|------|
| 1910 | 621 | 5,004 | 8.06 |
| 1911 | 623 | 5,506 | 8.84 |

That's a 10 percent increase in scoring from one year to the next. Here is the same chart with Boston's games removed:

Table 2.

| Year | G | R | R/G |
|------|-----|-------|------|
| 1910 | 464 | 3,808 | 8.21 |
| 1911 | 467 | 3,786 | 8.11 |

Oh, and of those 74 15-hit games the *Chicago Tribune* writer noted, 40 involved Boston, including the largest offensive explosion of the year, a 26–3 rout of Boston at the hands of the Cincinnati Reds on June 4.

In the American League, it was a different story, with a scoring increase of more than 20 percent spread across the league. The reason for the increase in the junior circuit is less clear.

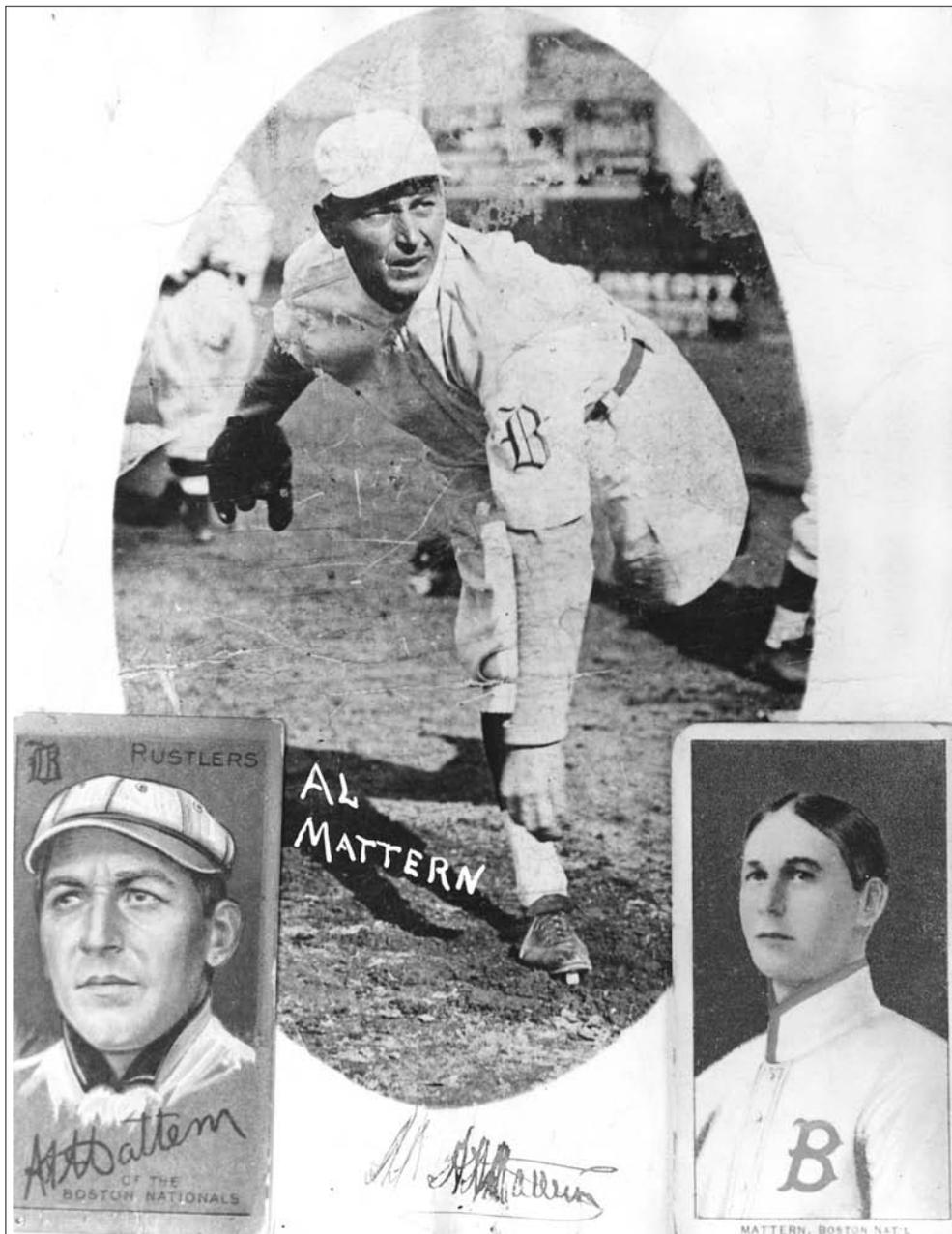
So what about the ballpark? Boston in 1911 played in South End Grounds. Actually, they played in the third incarnation of the South End Grounds. The previous version, nicknamed the "Grand Pavilion," had burned down on May 15, 1894, and a somewhat less grand replacement was built in only ten weeks. By 1911, it had short fences down both lines (250 feet in left field and 255 in right) but was relatively deep in center.

The short fences were probably why there were almost twice as many homers hit in Boston's home games that year. The park also had an effect on doubles and triples but almost no effect on anything else. Here are the combined records of Boston and their opponents at South End Park and elsewhere that year:

Table 3.

| | AB | R | H | 2B | 3B | HR | BB | AVG | SLG |
|------|-------|-----|-------|-----|----|----|-----|------|------|
| Home | 5,305 | 925 | 1,495 | 272 | 51 | 75 | 613 | .282 | .395 |
| Away | 5,312 | 793 | 1,492 | 218 | 97 | 38 | 619 | .281 | .380 |

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



Al Mattern, although with only two full seasons in the majors and having lost 19 games the year before, was the ace of the Boston Nationals going into the 1911 season. He went 4–10 before being dropped from the rotation in early July. The rest of the season he pitched out of the bullpen, ineffectively, and made an occasional start. He would not win another game in his major-league career. Boston's number-two starter, Buster Brown, beat Brooklyn 2–1 on opening day but after that began a 14-game losing streak.

So they did score and allow more runs at South End Park, which is what we expected, but their games were high-scoring in the other parks as well. The 485 runs they allowed on the road were more than any twentieth-century team would allow until 1930.

Which brings us to their pitchers. Despite the turmoil (featuring a drawn-out sale of the club and the installation of a new manager) surrounding the franchise just prior to the 1911 season, the core of Boston's pitching staff was intact from the year before, when four of their starting pitchers had each thrown more than 250 innings.

Al Mattern was the staff ace, having led the team in both wins and innings pitched the previous two

seasons. There were off-season rumors that had him going to either the Cubs or the Reds in a trade, but they came to nothing.⁴ Buster Brown, their number-two starter despite 23 losses the year before, was the Boston pitcher to allow the fewest runs per nine innings. Sam Frock had been picked up in a trade with the Pirates the previous April and ended up winning 12 games and finishing third in the league with 171 strikeouts. Rounding out the quartet was Cliff Curtis, the weakest link in the group. Curtis led the team in runs allowed, walks, and losses, finishing with a 6–24 record and a 3.55 ERA. He dropped his twenty-third consecutive decision on May 22 and was 1–8 (on a pace to lose 26 games) when he was sent to the Cubs.

RUANE: The Deadball Era's Worst Pitching Staff

None of the four was either particularly young or old, ranging in age from 27 (Mattern) to 29 (Brown and Curtis), and there was little reason to suspect that none of the four would come close to repeating his previous season's performance.

A lot had been expected of Cecil Ferguson, the only other Boston pitcher to see significant action in 1910. He had managed a 7-7 record, including five wins in September and October, and during the offseason had successfully petitioned the National Commission to receive a \$500 bonus promised to him if he succeeded in winning most of his games.⁵ The appeal hinged on whether two of his victories in exhibition games should count. He argued that they should and the Commission agreed, no doubt causing owners everywhere to be more careful with the language of bonus agreements in the future. Cecil then decided to hold out and had yet to sign a contract by the start of the season.⁶ This is pure speculation, but it wouldn't be too surprising if the owners had simply subtracted the \$500 bonus from his 1911 salary.

The main newcomers were 21-year-old Lefty Tyler, who had pitched decently in two late-season relief appearances the year before, and Big Jeff Pfeffer, a veteran obtained from the Cubs in a February trade. This was Pfeffer's second stint with the team; back in 1906, he had been one of four Boston pitchers to lose 20 or more games, duplicating the feat of the previous year's staff and marking the only two times in major-league history that a team has had a quartet of 20-game losers. The team that came closest since then? You guessed it—the 1910 Nationals, with Mattern, Brown, Frock, and Curtis all losing at least 19 games.

The season started deceptively well, with Buster Brown beating Brooklyn 2-1 on opening day. Unfortunately, his second victory would not come until August. Mattern and Tyler were knocked out early in the next two games, the latter featuring 15 Brooklyn runs and 6 stolen bases, before Curtis, because of a sore shoulder, was forced to leave his first start of the year after only one inning.⁷ The Phillies scored 10 runs in each of the next two games, knocking out Frock and Mattern, and the swatfest was on. Before the season was over, Boston pitchers would give up 10 or more runs in a game 32 times.

One early-season surprise was the pitching of Pfeffer, whose repertoire included what one *Boston Globe* writer called "annoying slow balls."⁸ He replaced Curtis in the rotation for a while. Pfeffer pitched Boston's first shutout of the year on April 24 and ran his record to 5-0 with a complete-game victory on May 8. After that, the league appears to have figured him out. Two



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

The Boston Nationals added Cy Young, age 44, after Cleveland released him late in the 1911 season. He threw two shutouts for Boston and also his last major-league pitch, which came in the course of allowing eight straight hits before being removed by manager Fred Tenney.

bad starts in a row got him dropped from the rotation, and over the rest of the season he would allow more than a run an inning.

Brown began a 14-game losing streak after his opening-day victory, and Mattern ended up getting dropped from the rotation in early July with a 4-10 record. He pitched ineffectively out of the bullpen the rest of the year, making only an occasional start, and would not win another game in his major-league career.

Frock lost his job as a starter after allowing 10 runs in a complete-game loss to the Phillies and was sold to the Atlanta Crackers in early May. He would pitch in the minor leagues until 1918 and would not appear again in the majors. Curtis recovered from his sore shoulder and was back in the starting rotation within

The Baseball Research Journal, Fall 2009

a month but was also ineffective. He was 1–8 and on a pace to lose 26 games when he was sent to the Cubs in an eight-player trade in June.⁹ And finally, Cecil Ferguson didn't sign a contract until late May.¹⁰ Once he reported, he pitched briefly and badly and was traded to Memphis of the Southern Association at the end of July.

In short, the five pitchers who had combined for 146 starts in 1910 all pitched much worse the next year. Table 4 shows their combined lines.

Their collapse opened the door for a host of new faces, and before the end of the season 16 different pitchers would start at least one game for the team. Lefty Tyler was the first to get a shot, but he didn't pitch well early and was used sparingly until July. Between May 27 and July 5, he pitched in only one game, in a mop-up role in a 20–2 loss to the Cubs on June 11. By early August, he sported a 1–8 record and had allowed 79 runs in 74 innings.

Other newcomers included Orlie Weaver and Hub Perdue. Weaver, who came over from Chicago in the Curtis trade, had shown some promise in Chicago but didn't do well after the trade and was 2–12 by the time he was dropped from the rotation at the end of August. On October 9, he was given one last start and pitched a complete-game victory. It would be his last major-league appearance.

Perdue was a 28-year-old rookie who was added to the roster after going 12–17 with Nashville of the Southern Association the year before. He pitched well in his first start with Boston before being forced to leave with arm problems.¹¹ He underwent electric treatments for a month before having a bone splinter removed in late May. Despite being a little over-matched in the majors, Perdue managed to stay in the rotation after recovering from his arm troubles and even had a winning record for a while before fading over the last six weeks of the season.

The team reached its low point on August 1, when Boston lost to the Pirates 10–2. At the time, they were on a pace to lose 119 games and give up more than 1,100 runs. After that game, they would go 24–33 and allow 5.7 runs a game. That might not sound great, but, compared to a 20–74 record and 7.1 runs allowed per game, it was quite an improvement. So what happened?

Big improvements came from Brown and Tyler, who had each won only once by the beginning of August. They both had winning records after that, Brown going 7–4 and Tyler 6–4. And two late-season additions also helped. Ed Donnelly was selected from Troy in the September draft of minor-league players. He made four starts over the last three weeks of the season, winning three, including a shutout in his last start of the season.

The other late-season addition was Cy Young, who was signed after being released by Cleveland. He pitched well down the stretch, throwing two shutouts. The story I had always heard was that Young decided to retire after losing a 1–0 game to Pete Alexander, but I suspect the real reason had more to do with the last inning he pitched that year. It was in a game at Brooklyn on October 6. The score was knotted at 3 heading into the bottom of the seventh inning. With one out and no one on, Otto Miller tripled. That was followed by four straight singles and then three straight doubles. After the eighth hit in a row, Fred Tenney finally removed Cy Young from what would turn out to be his last major-league game.

So much for the pitchers. What about the hitters they faced? In a sense, the hitters faced by the Boston pitchers that year made up one of the greatest-hitting teams of all time. Of course, they were helped by both the South End Grounds and the pitchers they faced, but I thought it might be fun to take a quick look at their collective statistics. Table 5 shows a breakdown by each lineup position.

This is certainly a great offense, with good production out of every lineup spot except the last. It has the leadoff hitter getting on base more than 300 times (and stealing 59 bases); the second- and third-spot and cleanup hitters averaging more than 200 hits; an eighth-spot hitter batting over .300, and so on.

Table 6 shows how they hit by defensive position.

To focus on just one stat of particular interest at the time: This team had six regulars hitting .300 or better (and another hitting .296 with 108 walks).

One surprising finding here is that the second basemen are only a shade behind the right-fielders in the battle for best hitter on this team. Much of this is due to Heinie Zimmerman, who went 40–80 with three triples and six home runs against Boston that season.

Table 4.

| Year | G | GS | CG | SHO | IP | H | R | ER | BB | SO | W | L | ERA |
|------|-----|-----|----|-----|------|------|-----|-----|-----|-----|----|----|------|
| 1910 | 211 | 146 | 68 | 12 | 1197 | 1145 | 601 | 421 | 488 | 467 | 50 | 92 | 3.17 |
| 1911 | 97 | 59 | 30 | 0 | 544 | 634 | 387 | 292 | 230 | 162 | 14 | 45 | 4.83 |

RUANE: The Deadball Era's Worst Pitching Staff

Table 5.

| POS | AB | R | H | 2B | 3B | HR | BB | K | SH | HBP | SB | AVG | OBP | SLG |
|------------|--------------|--------------|--------------|------------|-----------|-----------|------------|------------|------------|-----------|------------|-------------|-------------|-------------|
| 1 | 614 | 151 | 179 | 28 | 10 | 6 | 133 | 51 | 11 | 6 | 59 | .292 | .422 | .399 |
| 2 | 633 | 141 | 195 | 22 | 15 | 14 | 85 | 53 | 24 | 3 | 40 | .308 | .393 | .457 |
| 3 | 617 | 127 | 208 | 29 | 17 | 6 | 77 | 60 | 23 | 5 | 36 | .337 | .415 | .468 |
| 4 | 606 | 137 | 203 | 33 | 14 | 20 | 70 | 44 | 10 | 11 | 37 | .335 | .413 | .535 |
| 5 | 602 | 110 | 176 | 22 | 12 | 13 | 53 | 50 | 19 | 7 | 26 | .292 | .356 | .434 |
| 6 | 566 | 106 | 165 | 31 | 10 | 4 | 78 | 42 | 20 | 6 | 40 | .292 | .383 | .403 |
| 7 | 562 | 95 | 161 | 26 | 8 | 7 | 73 | 37 | 16 | 3 | 32 | .286 | .371 | .399 |
| 8 | 552 | 88 | 166 | 29 | 6 | 5 | 64 | 42 | 14 | 6 | 14 | .301 | .379 | .402 |
| 9 | 545 | 66 | 118 | 18 | 2 | 1 | 41 | 114 | 28 | 4 | 5 | .217 | .276 | .262 |
| TOT | 5,297 | 1,021 | 1,571 | 238 | 94 | 76 | 674 | 493 | 165 | 51 | 289 | .297 | .381 | .420 |

Table 6.

| POS | AB | R | H | 2B | 3B | HR | BB | K | SH | HBP | SB | AVG | OBP | SLG |
|-------|-----|-----|-----|----|----|----|-----|-----|----|-----|----|------|------|------|
| P | 500 | 52 | 107 | 15 | 2 | 1 | 34 | 106 | 28 | 2 | 4 | .214 | .267 | .258 |
| C | 547 | 85 | 165 | 29 | 6 | 5 | 66 | 43 | 14 | 5 | 13 | .302 | .382 | .404 |
| 1B | 595 | 120 | 183 | 23 | 16 | 15 | 74 | 54 | 19 | 9 | 37 | .308 | .392 | .476 |
| 2B | 615 | 139 | 199 | 23 | 12 | 15 | 74 | 49 | 26 | 4 | 37 | .324 | .400 | .473 |
| 3B | 572 | 103 | 161 | 23 | 10 | 5 | 82 | 35 | 23 | 3 | 33 | .281 | .374 | .383 |
| SS | 593 | 116 | 184 | 29 | 9 | 5 | 70 | 38 | 11 | 6 | 33 | .310 | .389 | .415 |
| LF | 598 | 141 | 177 | 39 | 14 | 7 | 108 | 50 | 19 | 7 | 53 | .296 | .410 | .443 |
| CF | 605 | 121 | 184 | 20 | 11 | 6 | 90 | 51 | 18 | 4 | 42 | .304 | .398 | .403 |
| RF | 616 | 129 | 198 | 34 | 14 | 17 | 67 | 58 | 6 | 9 | 35 | .321 | .396 | .505 |
| PH/PR | 56 | 15 | 13 | 3 | 0 | 0 | 9 | 9 | 1 | 2 | 2 | .232 | .358 | .286 |

Also helping were Larry Doyle and John Hummel, who contributed 24 extra-base hits and a .634 slugging percentage to the second-base effort.

Still, I must admit that I expected this team to look even greater. Their .381 on-base percentage and .420 slugging percentage exceeded any team mark from the Deadball Era, but the 1923 Cleveland Indians, to pick just one example, had almost exactly the same percentages (.381 and .421) and scored “only” 886 runs. According to Runs Created (a formula, devised by Bill James, that can be used to predict from a team’s offensive statistics the number of runs they will score),¹² Boston’s opponents should have been expected to score 927 runs that season. So how did they manage to squeeze an extra 100 to 135 runs out of their offense? I suppose their 289 stolen bases may have added a few runs but, from what we know of their success rate, it’s hard to assume this was responsible for many of them.¹³

The answer lies in the Boston defense. In 1911, Boston committed an NL-worst 350 errors, which led to 245 unearned runs. By comparison, the average team in the AL in 1923 committed 200 errors leading to 126 unearned runs. So these hitters not only faced a pitching staff in disarray but also had the good fortune to hit into a very error-prone defense.¹⁴

The next year Boston would cut their errors down to 296, but that total would still be the most in the NL. Similarly, their pitchers would allow 871 runs, or 150 fewer than the year before, but that total would be not only still the worst in the league but also the second-worst of the Deadball Era.

As you can imagine from their performance in 1911, few of the pitchers discussed in this article had much of a future in the majors. Only two would make a significant contribution past that year. Lefty Tyler would have the longest career, pitching in the league until 1921, winning 127 games and making four World Series starts. And no Boston pitcher would match the combined 29 wins that Hub Purdue collected in 1912 and 1913. He would have the misfortune to get off to a slow start in 1914 and would be traded to the Cardinals on June 28. At the time of the trade, the Braves would be in last place. They would not be there for long. ■

Notes

A version of this article is posted at www.retrosheet.com.

Retrosheet has box scores for every game played in the National League in 1911 and play-by-play accounts for more than four hundred of them. This information was used extensively in this article and would not exist without Ted Turocy’s help in digitizing the data and in the design of Retrosheet’s box-score event-file format. And the transaction information used in this article is just a small sample of Cliff Blau’s extensive research in this area.

The Baseball Research Journal, Fall 2009

1. The Nationals were a generic nickname for just about any NL team that shared a city with an American League team. The less generic nicknames for Boston's NL entry were a little fluid during this period. They had been the Beaneaters until around 1907, when they became the Doves. In 1911, they were commonly referred to as the Rustlers, and the next year were known as the Braves. In the article, I will be referring to them as the Nationals, since few people would know who the Rustlers were and I'm sure I would get complaints from readers (and you know who you are) if I referred to them as the Braves.
2. *The Baseball Encyclopedia* (New York: Macmillan, Information Concepts, 1969), 22–29.
3. "Slugging Feature of Year," *Chicago Daily Tribune*, 29 October 1911, C4.
4. "Emslie to Quit with Pay," *Chicago Daily Tribune*, 18 December 1910, C1; "Mattern and Sweeney," *Boston Daily Globe*, 20 December 1910, 7.
5. "National League Men in Session," *New York Times*, 14 December 1910, 14.
6. "Cecil Ferguson Here," *Boston Daily Globe*, 18 April 1911, 5.
7. "Tenney Lads Get Back in Stride," *Boston Daily Globe*, 16 April 1911, 17.
8. *Ibid.*
9. The key to the trade for Boston was veteran catcher Johnny Kling, who caught one game for his new team and then threatened to quit. He was coaxed back after a few days, but getting used to catching his new pitching staff seems to have taken a toll on his hitting. He started his stay in Boston by collecting only 3 singles in 45 at-bats, for a .067 batting average (and slugging percentage).
10. "Baseball Notes," *Boston Daily Globe*, 23 May 1911, 6.
11. "Must Go to Surgeon," *Boston Daily Globe*, 20 May 1911, 6.
12. The Runs Created formula used here is a variant on Bill James's "technical" version—it is minus SB (since we don't have CS) and GDP and intentional walks (which we don't have for 1911). Like other versions of his formula, it can be expressed as (A times B) divided by C. In this version:

$$A = \text{Hits} + \text{walks} + \text{hit batsmen}$$

$$B = \text{Total bases} + (.26 [\text{walks} + \text{hit batsmen}]) + (.52 \times \text{sacrifice hits})$$

$$C = \text{At-bats} + \text{walks} + \text{hit batsmen} + \text{sacrifices}$$
 In the NL in 1911, this formula resulted in a total Runs Created of 5,398, or 2 percent less than the actual number of runs scored that year (5,506).
13. In 1911, Boston's opponents stole 289 bases; we have play-by-play data for 85 of their games. In those games, enemy baserunners stole 151 bases and were caught 91 times, for a success rate of 62 percent. Which means that all that running probably didn't account for a whole lot of extra runs.
14. I did consider that this might be a park effect, caused by either a poor playing field or an idiosyncratic official scorer, but Boston in 1911 committed a lot of errors both at home and on the road.

BAD PITCHING

Modern Baseball's Greatest-Hitting Team

The 1930 Phillies' Opponents

Tom Ruane

WHAT WAS THE best-hitting team in modern (i.e., post-1900) baseball history? There are many ways to answer that question. If you were to rank offense the way newspapers used to, by batting average, the 1930 Giants and their .319 batting average would top the list. That same year, the Phillies collected the most hits in a season, with 1,783, and the following summer the Yankees set a record, which still stands, when they crossed the plate 1,067 times.

But there was a "team" that scored almost a run per game more than the 1931 Yankees, that collected nearly 2,000 hits and whose .346 batting average far surpassed that of the Giants. They were the opponents of the 1930 Philadelphia Phillies.

Here are the top five teams in runs, hits, and batting average compared to the 1930 Anti-Phillies:

Table 1.

| Year | Team | Runs |
|-------------|-------------|--------------|
| 1931 | NY A | 1,067 |
| 1936 | NY A | 1,065 |
| 1930 | NY A | 1,062 |
| 1950 | BOS A | 1,027 |
| 1999 | CLE A | 1,009 |
| 1930 | ^PHI | 1,199 |

| Year | Team | Hits |
|-------------|-------------|--------------|
| 1930 | PHI N | 1,783 |
| 1930 | NY N | 1,769 |
| 1930 | STL N | 1,732 |
| 1921 | DET A | 1,723 |
| 1930 | CHI N | 1,722 |
| 1930 | ^PHI | 1,994 |

| Year | Team | BAvg |
|-------------|-------------|-------------|
| 1930 | NY N | .319 |
| 1921 | DET A | .316 |
| 1930 | PHI N | .315 |
| 1930 | STL N | .314 |
| 1922 | STL A | .310 |
| 1930 | ^PHI | .346 |

The difference between the first- and fifth-place teams in the chart above is 58 runs, 61 hits, and 9 batting-average points. The difference between the Phillies'

opponents and the top of the list are 132 runs, 211 hits, and 27 points.

So how did they do it? Well, they had three things going for them. First of all, they hit in a year when offense was at a historic high. Of the fifteen teams on the three lists above, seven are from 1930. And the 1930 Cubs finished fourth in the league that season in hits and still made the list. If the Cubs had gotten two more hits in 1930, the top four hit totals would all have been from the 1930 NL. The league that year amassed 13,260 hits; the second-highest total in a modern eight-team league was the 12,657 collected by the 1936 AL.

Second, they played half their games in Baker Bowl, a park that was extremely friendly to hitters. It had a short right-field fence—280.5 feet down the line and only 300 feet to right-center. The park's dimensions didn't result in that many more home runs, because of the 40-foot wall, featuring a huge ad for Lifebuoy soap ("which tells house ball players managed to be accepted socially after they are through with their daily exercise"), topped by another 15-foot wire screen. What they did increase, however, were singles and doubles. Here are the records of Philadelphia and their opponents both at Baker Bowl and elsewhere that year:

Table 2.

| | AB | R | H | 2B | 3B | HR | BB | BAVG | SLG |
|-------------|-------|-------|-------|-----|----|-----|-----|------|------|
| Home | 5,789 | 1,187 | 2,034 | 446 | 28 | 144 | 503 | .351 | .513 |
| Away | 5,642 | 956 | 1,743 | 299 | 97 | 124 | 490 | .309 | .462 |

According to the *Chicago Tribune* in 1937:

The right fielder who plays most of his games at Baker bowl has a better chance . . . to make assists than any outfielder on any other team in the National league. But he had a hard time building up his record for catching line drives. He must play with the seat of his bloomers against the soap ad and his main job is to judge bounces off the soap.¹

Still, had the Phillies' opponents that year played all their games away from Baker Bowl, they still would

The Baseball Research Journal, Fall 2009

Table 3.

| City | G | AB | R | H | 2B | 3B | HR | BB | AVG | OBP | SLG | RPG |
|-------------|-----------|-------------|------------|------------|------------|-----------|-----------|------------|-------------|-------------|-------------|-------------|
| STL N | 11 | 396 | 103 | 155 | 34 | 12 | 6 | 40 | .391 | .452 | .583 | 9.36 |
| CHI N | 13 | 513 | 117 | 172 | 26 | 7 | 13 | 64 | .335 | .410 | .489 | 9.00 |
| BRO N | 11 | 393 | 98 | 146 | 23 | 6 | 18 | 40 | .372 | .431 | .598 | 8.91 |
| PHI N | 77 | 2,961 | 644 | 1062 | 246 | 17 | 72 | 272 | .359 | .416 | .526 | 8.36 |
| NY N | 11 | 388 | 76 | 129 | 20 | 6 | 20 | 43 | .332 | .400 | .570 | 6.91 |
| PIT N | 11 | 390 | 68 | 121 | 20 | 16 | 6 | 30 | .310 | .361 | .490 | 6.18 |
| BOS N | 11 | 358 | 48 | 109 | 19 | 10 | 2 | 20 | .304 | .346 | .430 | 4.36 |
| CIN N | 11 | 365 | 45 | 100 | 12 | 7 | 5 | 34 | .274 | .338 | .386 | 4.09 |
| ^PHI | 79 | 2803 | 555 | 932 | 154 | 64 | 70 | 271 | .333 | .394 | .508 | 7.03 |

have broken the record for most runs, hits, and highest batting average in a season. Here's what they did in each city (see table 3).

The last line is the sum of all the non-Philadelphia totals. Expanded to a full season, that would have resulted in 1,096 runs and 1,840 hits, which, along with the .333 batting average, would have still broken all three team records.

The third thing this team had going for it was the good fortune to face perhaps the worst pitching staff in modern major-league history. Not that bad pitching staffs were anything new to Phillies fans. Bad pitching and the Phillies had been synonymous for years—ever since December 11, 1917, to be exact. On that date,

owner William Baker sent Pete Alexander, who had just completed his third successive 30-win season, along with his starting catcher to the Cubs for Pickles Dillhoefer, a .126-hitting scrub catcher; Mike Prendergast, a 3–6 pitcher; and \$55,000. What followed was the National League's version of the Curse of the Babe, as the Phillies went from having the second-best pitching staff in 1917 to allowing the most runs per game in 1918.

And it didn't stop there. In what could be the single greatest domination of any statistical category, the Phillies' pitchers kept right on allowing the most runs per game year after year until their string was finally stopped by the 1940 Pirates. Think about it: With all the great-hitting teams the New York Yankees had throughout the years, they never led their league in runs per game more than four years in a row. Phillies' pitchers led their league in allowing the most runs per game for 23 consecutive years.

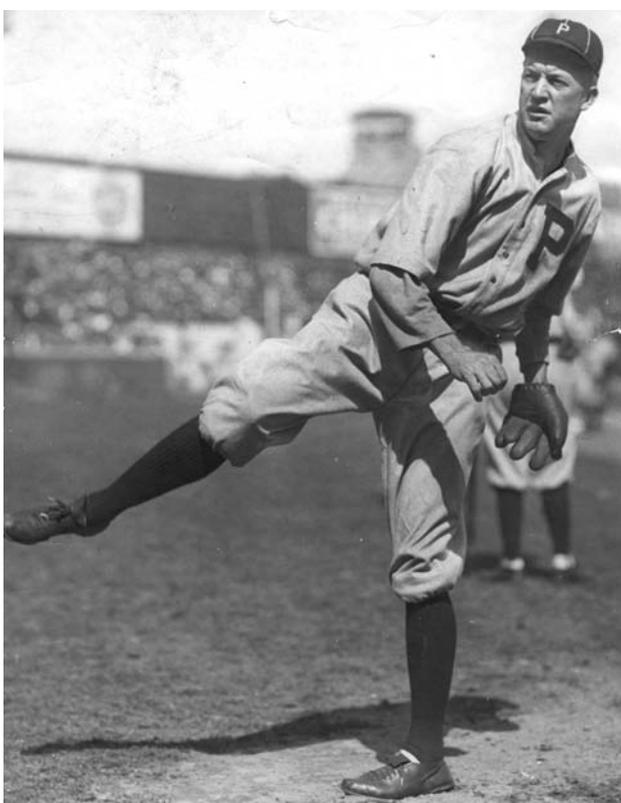
As they entered the 1930 season, Philadelphia was twelve years into that record run. The 1929 staff had outdone themselves, setting a modern single-season record for most runs allowed. At the start of 1930, here were the top ten runs-allowed totals in modern major-league history:

Table 4.

| Year | Team | Runs |
|------|-------|-------|
| 1929 | PHI N | 1,032 |
| 1911 | BOS N | 1,021 |
| 1923 | PHI N | 1,008 |
| 1928 | PHI N | 957 |
| 1925 | PHI N | 930 |
| 1929 | DET A | 928 |
| 1925 | BOS A | 922 |
| 1922 | PHI N | 920 |
| 1921 | PHI N | 919 |
| 1925 | STL A | 906 |

If it hadn't been for the 1911 Boston Braves, the Phillies would have set the record for most runs allowed four times during the 1920s.

BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.



In 1917, after his third consecutive 30-win season, Pete Alexander was traded by Phillies owner William Baker. From 1918 through 1939, Phillies pitching led the league in allowing the most runs per game.

RUANE: Modern Baseball's Greatest-Hitting Team

So what moves were made after the 1929 season to improve their pitching staff? The only one of consequence was to try to bury “The Curse of Old Pete” by bringing back Alexander in a trade with the Cardinals twelve years to the day after he had been traded away to the Cubs. He turned 43 years old before opening day and was coming off a turbulent, 9–8 season with the Cards. They kept the rest of their record-setting pitching staff pretty much intact.

Despite this, there was hope going into the season. They had won 71 games in 1929, their highest total since the original Alexander deal, ending up in fifth place. Moreover, they finished strongly. From August 14 to the end of the season, they had gone 30–18, the best record in the league.

Spring training in 1930 was an unusually rainy one, but the team left Winter Haven, Florida, and headed north with a great deal of optimism—or, as James Isaminger of *The Sporting News* put it, “Shotton and his Phillies face the barrier with the feeling that scarcely any position in the percentage table is beyond their reach.”²

Seldom has an opening-day game given a more misleading indication of things to come than the Phillies’ 1–0 victory over the Brooklyn Robins on April 15. According to Isaminger, Les Sweetland’s three-hit shutout “belied the current Spring fiction that Burt Shotton has no dependable pitchers.”³

On April 23, the sixth game of the season and the second in Baker Bowl, the Phillies scored two ninth-inning runs to defeat the Robins 16–15. This would be the first of 45 games in which Phillies’ opponents would score in double digits. In the next game, a 13–2 Giant victory, Freddie Lindstrom became the first Phillies opponent to rap five hits in a game. He would not be last. They are listed in table 5.

A modern major-league record (since broken) of 19 extra-base hits by both teams was set May 7 in the Cardinals’ 16–11 victory. Chick Hafey knocked in 5 runs in one inning, ending the day only a single shy of hitting

for the cycle. On August 21, he’d correct that oversight during a 16–6 romp and join Hack Wilson (on June 23—see the chart above) as the second player to hit for the cycle against the Phillies that year. Once again, he’d drive in 5 runs.

After the Phillies dropped their sixth straight game on May 8, Isaminger wrote, “It’s the old trouble with a daily example of slovenly pitching to nullify the batting power of a team, but flinging is as much a part of baseball as anything else and a team not equipped with pitching strength never can hope to get anywhere no matter how they boast about their battles.”⁴

In other words, the spring “fiction” had become fact.

Benny Frey, rookie pitcher for the Reds, ran his record to 4–0 with a 5–4 victory over the Phillies on May 11. Pete Alexander was his mound opponent, making his last major-league start. He gave up eight hits in less than four innings and would make his last appearance on May 28 in a mop-up role against the Braves.

On Memorial Day, Brooklyn swept the Phils in a doubleheader at Ebbets Field, by scores of 11–1 and 11–9. In the opening contest, Del Bissonette hit a home run only to be called out for passing Babe Herman on the basepaths. He was credited with a single instead, but he made up for his blunder by rapping out five successive hits in the second game.

On June 2 the Phillies (“badly bent of late,” according to Isaminger)⁵ opened a lengthy homestand, which midway was interrupted for a Sunday jaunt to Cincinnati to play a doubleheader. This was a way schedule makers got around the Pennsylvania blue laws against Sunday baseball, the Dodgers and the Giants being the Phillies’ more common Sunday opponents.

One of the Phillies’ few losses during their stay at Baker Bowl was the Cardinals’ 11–10 victory on June 3. Syl Johnson was the winning pitcher despite giving up 20 hits and 9 runs in 8½ innings. In the Pirates 19–12 victory in the opening game of the June 14 doubleheader, Pie Traynor may have tied a record for the most RBIs in a game without an extra-base hit when

Table 5.

| Date | Team | Player | AB | R | H | 2B | 3B | HR | RBI | Result | |
|---------------|------|--------|--------------------|---|---|----|----|----|-----|--------|---------|
| April 26 (1) | NY | N | Freddie Lindstrom | 5 | 4 | 5 | 1 | 0 | 0 | 2 | W 13–2 |
| May 20 | BRO | N | Babe Herman | 6 | 2 | 5 | 0 | 0 | 1 | 6 | W 16–9 |
| May 30 (2) | BRO | N | Del Bissonette | 5 | 3 | 5 | 1 | 0 | 1 | 3 | W 11–9 |
| June 23 | CHI | N | Hack Wilson | 6 | 3 | 5 | 1 | 1 | 1 | 5 | W 21–8 |
| July 10 | NY | N | Shanty Hogan | 6 | 3 | 5 | 2 | 0 | 0 | 3 | W 19–8 |
| July 10 | NY | N | Freddie Lindstrom | 5 | 3 | 5 | 1 | 0 | 0 | 1 | W 19–8 |
| July 23 (2) | PIT | N | Pie Traynor | 7 | 4 | 5 | 1 | 0 | 1 | 4 | W 16–15 |
| July 31 | BRO | N | Babe Herman | 5 | 1 | 5 | 2 | 0 | 1 | 4 | L 7–12 |
| August 19 (2) | CHI | N | High Pockets Kelly | 7 | 1 | 5 | 0 | 1 | 0 | 1 | T 6–6 |
| August 12 | CHI | N | Hack Wilson | 5 | 4 | 5 | 2 | 0 | 1 | 6 | W 17–4 |

he drove home seven runs with three singles. During the years covered by Retrosheet's box scores, only Jack Fournier and Tracy Jones managed to do this as well, Fournier on July 2, 1925, and Jones on June 9, 1989. Two days later, in a game that *The Sporting News* described as "wild and woolly," the Phillies built up a 16-3 lead over the Pirates before hanging on for an 18-14 decision.⁶

Heading west, the Phillies dropped three of four to the Cardinals before being ambushed by the Chicago Cubs at Wrigley Field, as the Cubs racked up 40 runs in three games, highlighted by a 21-8 pounding in the first game. In the finale, a 13-12 slugfest, Kiki Cuyler and Gabby Hartnett combined for three home runs and 11 RBIs. The Cubs were in the middle of a 20-7 June run that would land them in first place, while the Phillies were simply dropping three more games on their way to their third 17-60 road record in four years.

The next day, the Phillies demonstrated they could lose low-scoring games as well, falling 1-0 to the Pirates. The only run scored when, with a man on third, Phil Collins dropped the ball during his windup.

After the road trip, the Phillies had five days off before their next scheduled game. *The Sporting News* called it the "longest mid-season voluntary lay-off in history,"⁷ and it occurred because a series with the Reds, originally scheduled for the end of June, had been cancelled and the games moved to create three additional Sunday doubleheaders. During this extended holiday, they attempted to shore up their pitching staff by purchasing Snipe Hansen from the Richmond Roses of the Class B Central League. After winning 11 games (and walking more than 100 batters) in two months for Richmond, Hansen would go 0-7 for the Phils.

All but six of their 33 games during the month of July were played at Baker Bowl. The Phillies won only eight of them, cementing their hold on last place. The frustration of their fans reached its height on July 23 and 24, when their team scored 15 runs twice, in back-to-back games, only to lose them both, by scores of 16-15 and 19-15.

Their opponents scored in double digits twelve times during the month ("huge gobs of runs," according to Isaminger)⁸ and only twice were held to less than a hit an inning. Included in this month were games described by *The Sporting News* as "a slugging orgy" (July 7, 13-12 Giants), "a thorough beating" (July 10, 19-8 Giants), "a dizzy slugfest" (July 17, 14-9 Reds), and another



BASEBALL HALL OF FAME LIBRARY, COOPERSTOWN, N.Y.

Les Sweetland threw a three-hit shutout as the Phillies defeated the Brooklyn Robins on opening day in 1930. He finished the season at 7-15, giving up 271 hits in 167 innings. He pitched for the Cubs the next season, his last in the majors.

"wild and woolly game" (July 24, 19-15 Cubs).⁹ A 16-2 Cubs victory on July 26 featured three home runs by Hack Wilson, bringing his season total to 32.

In early August, the Phillies departed on a road trip that would take up most of the month. The trip featured some of the best pitching of the year, as the staff extended to 21 straight games (the first three of them were in late July) in which they held their opponents to less than ten runs. The road trip included a string of twelve games in which the Phillies allowed an average of less than four runs a game. Not surprisingly, this streak coincided with trips to Boston and Cincinnati, by far the two weakest-hitting teams in the league.

By the time they reached Wrigley Field in mid-August, things had returned to normal. That seven-game series included 10-9, 17-3, 9-8, and 10-8 scores, Hack Wilson's 43rd home run (tying an NL record) of the season, and a fight, between Philly pitcher Hap Collard and his catcher, over who'd been responsible for a recent rally. Hack's home run was hit over the head of Chuck Klein, Philadelphia's right fielder and the man whose record he'd tied. Chuck saluted Hack as he rounded first base and was given an ovation from the Wrigley fans for his display of good sportsmanship. From there, it was on to St. Louis, where the Cards averaged 10 runs a game in sweeping a five-game series.

RUANE: Modern Baseball's Greatest-Hitting Team

They returned to Baker Bowl near the end of August with a record of 40–83, 13½ games out of seventh place. All but six of their remaining games would be played at home. One of their brief trips away was to Ebbets Field for a Sunday game on August 31, where they lost 14–3 to the Robins in the first game ever played with a new 20-foot screen installed in right-field to reduce the number of cheap home runs. Modeled after the screen at the Baker Bowl, in this game it did not have the desired effect, as the two teams combined for five home runs.

Returning six days later, the Phillies were clobbered once again, this time 22–8, in a game that featured another five home runs. The 22 runs were the most scored against Philly pitchers in 1930 and followed an 18–5 defeat at the hands of the Giants, who were led by Bill Terry's seven RBIs. Freddie Fitzsimmons and Dolf Luque, the pitchers benefiting from all this offense, both pitched complete games despite giving up a combined 13 runs and 28 hits, including 12 doubles. Luque went the distance in his six starts against the Phillies in 1930, winning them all despite giving up an average of more than 11 hits and 5 runs a game. His teammates supported him in these games with 80 runs, ensuring that he wouldn't have to pitch too carefully.

The Phillies then took a brief break from high-scoring games, as they traveled to Boston and split a doubleheader with the Braves, winning 1–0 and losing 2–1. The losing pitchers allowed only two and five hits, respectively. But rather than signaling a late-season pitching resurgence, these games were simply an anomaly that wouldn't be repeated. Over the final 20 games, Phillies' opponents would be held to fewer than 10 hits only once (when the Pirates needed only 8 to defeat them 6–5 on September 18) and would post a .383 batting average during the month of September.

In early September, the Phillies took advantage of some offdays to play their first two night games, exhibitions against Allentown (Eastern League) and Baltimore (International League). Although losing to

the Allentown Buffaloes 7–5, the Phillies managed to beat the Orioles 9–6 in ten innings, despite a three-run home run by Joe Hauser, who'd finish the year with 63 homers (not counting the one hit in this game), a record for Organized Baseball. It stood until he broke it three years later (with 69) while playing for the Minneapolis Millers of the American Association.

Down the final stretch, Phillies' opponents averaged more than 10 runs per game over a 12-game span, starting September 12 with a 17–4 romp at the hands of the Cubs, highlighted by Hack Wilson's five hits (including his 49th home run). Before coming to Baker Bowl, the Cubs had scored only a single run in three straight losses to the Robins. They scored 39 in their four games in Philadelphia, managed only a series split (including a thrilling 12–11 loss), and dropped out of first place for good.

The Pirates came into town next and won two of three, their only loss being by the score of 15–14 in ten innings. This was yet another game described by *The Sporting News* as "wild and woolly."¹⁰ They seemed to be running out of ways to describe games in which the losing team scored in double digits. The Phillies would drop nine such contests over the course of the year.

The Phillies missed out on an opportunity to play spoiler when first-place St. Louis followed the Pirates into Baker Bowl. The Cardinals took four of five games, the final two by scores of 15–7 and 19–16. That last one was witnessed by Connie Mack and his Athletics, who were taking advantage of an offday to scout their likely World Series opponent. According to *The Sporting News*, they "left Baker Bowl somewhat confused as to whether they must play baseball or cricket in the World Series."¹¹ The Cards scored more runs in that game than they would in all six games of the World Series.

Five days later, the season came to a merciful close in the Polo Grounds with the Giants taking a 7–6 ten-inning affair.

Philadelphia's opponents came within a single run (Del Bissonette's lost home run on Memorial Day) of

Table 6.

| POS | AB | R | H | 2B | 3B | HR | RBI | BB | K | SH | HBP | SB | AVG | OBP | SLG |
|------------|--------------|--------------|--------------|------------|-----------|------------|--------------|------------|------------|------------|-----------|-----------|-------------|-------------|-------------|
| 1 | 720 | 149 | 247 | 35 | 15 | 10 | 84 | 52 | 30 | 16 | 4 | 13 | .343 | .390 | .475 |
| 2 | 688 | 181 | 239 | 46 | 9 | 16 | 97 | 72 | 28 | 18 | 2 | 6 | .347 | .411 | .510 |
| 3 | 659 | 176 | 261 | 58 | 14 | 21 | 157 | 72 | 35 | 26 | 4 | 25 | .396 | .459 | .622 |
| 4 | 625 | 162 | 244 | 56 | 17 | 24 | 172 | 89 | 40 | 29 | 3 | 9 | .390 | .469 | .650 |
| 5 | 625 | 146 | 233 | 57 | 10 | 27 | 178 | 80 | 48 | 20 | 5 | 11 | .373 | .448 | .626 |
| 6 | 628 | 113 | 222 | 50 | 5 | 13 | 137 | 56 | 30 | 31 | 4 | 13 | .354 | .410 | .511 |
| 7 | 616 | 92 | 219 | 48 | 5 | 16 | 140 | 48 | 39 | 23 | 6 | 4 | .356 | .407 | .528 |
| 8 | 611 | 101 | 169 | 26 | 4 | 10 | 88 | 44 | 42 | 14 | 5 | 4 | .277 | .330 | .381 |
| 9 | 592 | 79 | 160 | 24 | 2 | 5 | 71 | 30 | 92 | 31 | 0 | 2 | .270 | .305 | .343 |
| TOT | 5,764 | 1,199 | 1,994 | 400 | 81 | 142 | 1,124 | 543 | 384 | 208 | 33 | 87 | .346 | .405 | .517 |

The Baseball Research Journal, Fall 2009

scoring 1,200 runs. Table 6 shows what this team did by batting-order position.

If this had been an actual team (and if the regulars never left the lineup), the first three batters would have set modern records for at-bats, runs, and hits, respectively. The fifth-place hitter's 178 RBIs would have set the major-league record if Hack Wilson (aided by his 38 RBIs in 24 games against the Philly pitchers) hadn't knocked in 191 that season. They produced so many hits that the seventh-place hitter's 219 hits would have been bettered by six of his teammates. The lineup didn't feature a lot of home runs by modern standards, but their 140 home runs had been topped

by only one other National League team, the 1929 Phillies. In addition to setting modern team records for runs, hits, and batting average, this squad would have also owned the marks for most doubles and highest slugging percentage.

It's a little surprising that the eighth-place hitter, preceded by five batters averaging .374 and more than 50 doubles, hit .277 and yet knocked in only 88 runs. By comparison, Sam Mele of the Senators had a similar year in 1951 (.274 average, 153 hits, and 5 home runs) and had 94 RBIs in the middle of a lineup that boasted one .300-hitter and a .263 team batting average.

Table 7 shows how they hit by defensive position.

Table 7.

| POS | AB | R | H | 2B | 3B | HR | RBI | BB | K | SH | HBP | SB | AVG | OBP | SLG |
|-------|-----|-----|-----|----|----|----|-----|----|----|----|-----|----|------|------|------|
| P | 530 | 72 | 147 | 24 | 2 | 5 | 66 | 23 | 85 | 30 | 0 | 2 | .277 | .307 | .358 |
| C | 618 | 104 | 196 | 41 | 4 | 19 | 134 | 37 | 37 | 18 | 7 | 2 | .317 | .363 | .489 |
| 1B | 639 | 140 | 239 | 46 | 11 | 20 | 157 | 59 | 38 | 35 | 4 | 11 | .374 | .430 | .574 |
| 2B | 654 | 125 | 215 | 42 | 9 | 8 | 94 | 55 | 23 | 24 | 4 | 12 | .329 | .384 | .457 |
| 3B | 655 | 153 | 246 | 48 | 6 | 12 | 134 | 77 | 36 | 23 | 2 | 14 | .376 | .443 | .522 |
| SS | 607 | 107 | 200 | 43 | 7 | 12 | 109 | 57 | 34 | 22 | 2 | 4 | .329 | .389 | .483 |
| LF | 654 | 159 | 230 | 54 | 19 | 19 | 132 | 77 | 50 | 15 | 5 | 16 | .352 | .424 | .580 |
| CF | 662 | 147 | 236 | 39 | 9 | 19 | 109 | 63 | 38 | 23 | 4 | 8 | .356 | .416 | .529 |
| RF | 656 | 177 | 267 | 62 | 14 | 28 | 174 | 82 | 32 | 15 | 5 | 18 | .407 | .476 | .672 |
| PH/PR | 89 | 15 | 18 | 1 | 0 | 0 | 15 | 13 | 11 | 3 | 0 | 0 | .202 | .304 | .213 |

Table 8.

| POS | AB | R | H | 2B | 3B | HR | RBI | BB | K | SH | HBP | SB | AVG | OBP | SLG |
|-----|------|-----|------|-----|----|----|-----|-----|-----|----|-----|----|------|------|------|
| 1 | 371 | 77 | 134 | 30 | 3 | 5 | 50 | 28 | 16 | 2 | 4 | 5 | .361 | .412 | .499 |
| 2 | 357 | 86 | 128 | 29 | 1 | 8 | 55 | 34 | 11 | 7 | 2 | 1 | .359 | .417 | .513 |
| 3 | 336 | 99 | 138 | 37 | 1 | 12 | 81 | 38 | 17 | 11 | 3 | 12 | .411 | .475 | .634 |
| 4 | 319 | 87 | 128 | 35 | 6 | 11 | 96 | 47 | 18 | 14 | 2 | 4 | .401 | .481 | .652 |
| 5 | 331 | 71 | 122 | 33 | 2 | 12 | 92 | 33 | 26 | 9 | 3 | 3 | .369 | .431 | .589 |
| 6 | 326 | 66 | 122 | 28 | 1 | 7 | 69 | 26 | 11 | 14 | 2 | 7 | .374 | .424 | .531 |
| 7 | 310 | 52 | 120 | 27 | 2 | 11 | 75 | 26 | 12 | 14 | 3 | 2 | .387 | .440 | .594 |
| 8 | 311 | 57 | 89 | 14 | 0 | 3 | 49 | 26 | 17 | 6 | 2 | 1 | .286 | .345 | .360 |
| 9 | 300 | 49 | 81 | 13 | 1 | 3 | 39 | 14 | 48 | 22 | 0 | 1 | .270 | .303 | .350 |
| TOT | 2961 | 644 | 1062 | 246 | 17 | 72 | 606 | 272 | 176 | 99 | 21 | 36 | .359 | .416 | .526 |

Table 9.

| Name | Team | AB | R | H | 2B | 3B | HR | RBI | BB | AVG | OBP | SLG |
|-------------------|-------|----|----|----|----|----|----|-----|----|------|------|------|
| Babe Herman | BRO N | 91 | 28 | 47 | 10 | 1 | 8 | 38 | 9 | .516 | .564 | .912 |
| Freddie Lindstrom | NY N | 92 | 28 | 47 | 11 | 0 | 3 | 24 | 9 | .511 | .554 | .728 |
| Hack Wilson | CHI N | 98 | 36 | 47 | 8 | 1 | 9 | 38 | 20 | .480 | .568 | .857 |
| Johnny Frederick | BRO N | 98 | 37 | 46 | 10 | 1 | 4 | 18 | 10 | .469 | .519 | .714 |
| Mel Ott | NY N | 73 | 25 | 34 | 12 | 1 | 6 | 32 | 25 | .466 | .602 | .904 |
| Gus Mancuso | STL N | 65 | 16 | 30 | 9 | 0 | 2 | 26 | 5 | .462 | .507 | .692 |
| Dick Bartell | PIT N | 87 | 15 | 40 | 14 | 0 | 0 | 15 | 9 | .460 | .515 | .621 |
| Tony Cuccinello | CIN N | 68 | 14 | 31 | 6 | 2 | 1 | 19 | 12 | .456 | .538 | .647 |
| Jim Bottomley | STL N | 82 | 17 | 36 | 11 | 1 | 1 | 24 | 6 | .439 | .489 | .634 |
| George Watkins | STL N | 78 | 22 | 34 | 10 | 2 | 4 | 21 | 5 | .436 | .476 | .769 |
| Glenn Wright | BRO N | 76 | 19 | 33 | 10 | 1 | 5 | 30 | 7 | .434 | .482 | .789 |
| Bill Terry | NY N | 90 | 25 | 38 | 4 | 4 | 7 | 28 | 11 | .422 | .485 | .789 |
| Freddy Leach | NY N | 76 | 23 | 32 | 5 | 0 | 4 | 13 | 6 | .421 | .463 | .645 |
| Del Bissonette | BRO N | 91 | 21 | 37 | 9 | 2 | 5 | 27 | 6 | .407 | .443 | .714 |

RUANE: Modern Baseball's Greatest-Hitting Team

The right-fielder's stats stand out the most and he would have set modern NL marks for most runs, hits, and doubles, but all the regulars in the lineup except the pitcher would have hit over .300 and scored more than 100 runs, and all but one of them would have more than 40 doubles and 100 RBIs. I was a little surprised at how poorly the pinch-hitters did, with an OPS just slightly over .500 in 89 at-bats.

To get some idea of how much of this was caused by Baker Bowl, table 8 shows how the Phillies' opponents did there by batting-order position.

So who were these guys? Forty-four players that year had 60 or more at-bats against the Phillies. Their median batting average and slugging percentage were .379 and .564. This included two with batting averages over .500 and 14 players who hit better than .400. Table 9 shows who they were.

Table 10 shows how each team hit against the Phillies that season.

The 218 runs scored by the Cubs set a modern major-league record for most runs scored by one team against another in a season. At the time, Brooklyn's 196 and St. Louis's 190 were the second- and third-highest totals. (They have since been superseded by the 207 runs scored by the 1931 Yankees against the White Sox and the 216 runs scored by the 1950 Red

Sox against the Browns.) Every team scored at least 1.5 more runs a game (and hit at least thirty points higher) against the Philadelphia pitching staff than they did against the rest of the league.

Fourteen different pitchers took the mound for the Phillies in 1930. Table 11 shows a capsule summary of the worst pitching staff ever assembled.

As bad as the starting pitching was (42-86 with a 6.15 ERA in 991½ innings), the relief pitching was even worse. In 383½ innings, the Phillies gave new meaning to the word *relief* by allowing 415 runs and 347 earned runs, for an 8.15 ERA.

This was not simply a bad pitching staff; it was one with very little promise of getting better. No pitcher under the age of 28 won more than a single game. With Alexander as the obvious exception, and he made only a brief appearance that year, none of these pitchers had accomplished much in previous seasons. Among the pitchers not named Pete, Claude Willoughby entered the season with a staff-leading lifetime victories, and only Phil Collins (10-7) had a winning record. Even their nicknames gave comfort to the enemy, led by Fidgety Phil Collins and Weeping Willie Willoughby, who was also known as Flunky.¹²

Despite his nickname, Collins was clearly the ace of the staff. At one point in late July, he was 10-3 while

Table 10.

| Team | AB | R | H | 2B | 3B | HR | RBI | BB | AVG | OBP | SLG |
|-------|-----|-----|-----|----|----|----|-----|-----|------|------|------|
| CHI N | 930 | 218 | 326 | 47 | 9 | 29 | 201 | 105 | .351 | .418 | .514 |
| BRO N | 823 | 196 | 309 | 66 | 7 | 27 | 186 | 75 | .375 | .433 | .571 |
| STL N | 804 | 190 | 294 | 74 | 16 | 14 | 183 | 77 | .366 | .426 | .550 |
| PIT N | 822 | 166 | 279 | 61 | 17 | 17 | 157 | 91 | .339 | .407 | .517 |
| NY N | 829 | 176 | 298 | 52 | 11 | 30 | 165 | 71 | .359 | .411 | .557 |
| BOS N | 779 | 128 | 249 | 50 | 12 | 8 | 113 | 50 | .320 | .366 | .445 |
| CIN N | 777 | 125 | 239 | 50 | 9 | 17 | 119 | 74 | .308 | .369 | .461 |

Table 11.

| Name | Age | W | L | G | GS | IP | ER | ERA |
|-------------------|-----|----|----|----|----|-------|-----|-------|
| Phil Collins | 28 | 16 | 11 | 47 | 25 | 239 | 127 | 4.78 |
| Ray Benge | 28 | 11 | 15 | 38 | 29 | 225.2 | 143 | 5.70 |
| Les Sweetland | 28 | 7 | 15 | 34 | 25 | 167 | 143 | 7.71 |
| Claude Willoughby | 31 | 4 | 17 | 41 | 24 | 153 | 129 | 7.59 |
| Hap Collard | 31 | 6 | 12 | 30 | 15 | 127 | 96 | 6.80 |
| Hal Elliott | 31 | 6 | 11 | 48 | 11 | 117.1 | 100 | 7.67 |
| Snipe Hansen | 23 | 0 | 7 | 22 | 9 | 84.1 | 63 | 6.72 |
| Chet Nichols | 32 | 1 | 2 | 16 | 5 | 59.2 | 45 | 6.79 |
| Harry Smythe | 25 | 0 | 3 | 25 | 3 | 49.2 | 43 | 7.79 |
| Buz Phillips | 26 | 0 | 0 | 14 | 1 | 43.2 | 39 | 8.04 |
| Lou Koupal | 31 | 0 | 4 | 13 | 4 | 36.2 | 35 | 8.59 |
| John Milligan | 26 | 1 | 2 | 9 | 2 | 28.1 | 10 | 3.18 |
| Pete Alexander | 43 | 0 | 3 | 9 | 3 | 21.2 | 22 | 9.14 |
| By Speece | 33 | 0 | 0 | 11 | 0 | 19.2 | 29 | 13.27 |

the rest of his teammates were 21–53. Imagine what the season could have looked like if he didn't have the best year of his career in 1930.

Although just 1–9 as a starter, Hal Elliott finished 5–2 in relief, only two behind the Giants' Joe Heving's league-leading seven relief victories. This was quite an accomplishment for Hal in light of his relief ERA of 7.99. He should not be confused with Jumbo Elliott, who came to the Phillies during the offseason and ended 1931 tied for the NL lead in victories with 19. Jumbo weighed at least 65 pounds more than Hal and in half of the next season won as many games as Hal did in his entire career. Jumbo did follow Hal's example, however, to lead the league in games pitched in 1931, perhaps the only time two different teammates with the same last name have led the league in the same pitching category in consecutive years.

Chet Nichols was a holdout in 1930, after getting drafted from Montreal of the International League. He had previously pitched ineffectively in trials with the Pirates and Giants and fared little better once he finally showed up for work in Philadelphia. His son, born after the 1930 season, would become the youngest pitcher in the modern era to lead a league in ERA when, in 1951 at the age of 20, he posted a 2.88 ERA. His final career ERA of 3.64 would be roughly half that of his father.

After the season, the Phillies made some moves to bolster their pitching staff, dumping Les Sweetland and Claude Willoughby, while trading Lefty O'Doul and Fresco Thompson to Brooklyn for Elliott, Clise Dudley, outfielder Hal Lee, and (as usual with Philly deals during the Baker era) a pile of cash.

In 1931, the Phillies once again allowed the most runs in the National League, but the total was only 828, a drop of 271 runs from the previous year. Jumbo Elliott's good showing was one reason for the improvement, as was the best year of Ray Benges's career, but a larger reason would be the drastic decline in scoring throughout the league. Something happened during the winter of 1930–31. Whatever had been done (and, of course, no one was admitting anything) before 1929 to boost offense had been undone by the time 1931

rolled around. After scoring a combined 11.4 runs a game in 1930, National League teams would see that total drop nearly 2.5 runs a game, to 9.0, the largest single-season scoring decline in modern history.

The Phillies wouldn't allow more than 900 runs in a season again. William Baker sold the team in 1931, and they moved out of Baker Bowl in the middle of the 1938 season. By the late 1940s, they would start to assemble a strong pitching staff, and in 1950, led by Robin Roberts, Jim Konstanty, and Curt Simmons, the Phillies' pitching staff would allow the fewest runs in the league for the first time since the 1915 pennant winners. They would also reach the World Series, losing in four games to the Yankees a little less than a month before Pete Alexander, whose trade coincided with the start of their long decline, died in St. Paul, Nebraska, at the age of 63. ■

Notes

A version of this article is posted at www.retrosheet.com. Retrosheet has box scores for every game played in the National League in 1930. This information was used extensively in this article and would not exist without the work of several volunteers, including Dave Lamoureux, Wade Coble, Ron Carron, Jack Myers, Tom Bradley, Joe Murphy, and Steve Vetere.

1. Edward Burns, "Introducing Baker Bowl and That Short Right Field Fence," *Chicago Daily Tribune*, 13 June 1938, A2. The earlier quote also came from this article, which was part of a series designed to persuade Cubs and White Sox fans to appreciate their home parks.
2. James C. Isaminger, "A's Break Camp at Fort Myers; Six of Mack's Rookies Make Good," *The Sporting News*, 3 April 1930, 1.
3. James C. Isaminger, "It'll Be Long Time Before Philly Fans Forget Al Simmons' Debut," *The Sporting News*, 24 April 1930, 1.
4. James C. Isaminger, "Champion A's Run True to Form in A.L.," *The Sporting News*, 15 May 1930, 1.
5. James C. Isaminger, "A's Regain Winning Ways of Balmy Days," *The Sporting News*, 5 June 1930, 1.
6. *The Sporting News*, 19 June 1930, 7.
7. James C. Isaminger, "When A's Speed Up, Rivals Step on Gas," *The Sporting News*, 10 July 1930, 1.
8. James C. Isaminger, "Macks Say It with Big Innings, As They Did in World Series," *The Sporting News*, 24 July 1930, 1.
9. *The Sporting News*, 10 July 1930, 7; 17 July 1930, 7; 24 July 1930, 7; and 31 July 1930, 7.
10. *The Sporting News*, 25 September 1930, 7.
11. *The Sporting News*, 2 October 1930, 7.
12. These nicknames were taken from *The Baseball Encyclopedia* (New York: Macmillan, Information Concepts, 1969). I have always wondered just how many of the nicknames included in the book were actually ever used to refer to the players in question, at least while they were in earshot.

Two New Biographies of Alexander Cartwright

William J. Ryczek

Live All You Can: Alexander Joy Cartwright and the Invention of Baseball

by Jay Martin
Columbia University Press (2009)
\$22.95, cloth. 168 pages. 20 illustrations

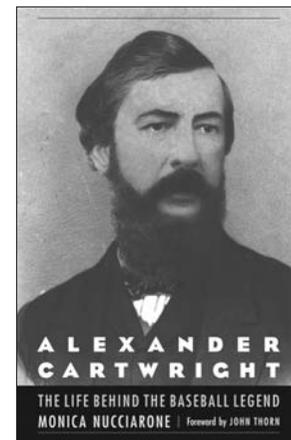
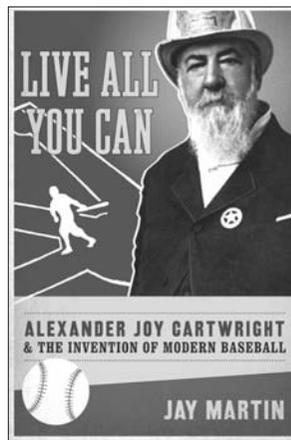
Alexander Cartwright: The Life Behind the Baseball Legend

by Monica Nucciarone
University of Nebraska Press (2009)
\$27.95, cloth. 326 pages. 27 photos, 1 map

Alick, we hardly knew ye. For many years, the only full-length biography of Alexander Cartwright was *The Man Who Invented Baseball*, written by Harold Peterson and published in 1973. In 2009, two new portraits of Cartwright have appeared: *Live All You Can: Alexander Joy Cartwright and the Invention of Baseball* by Jay Martin and *Alexander Cartwright: The Life Behind the Baseball Legend*, by Monica Nucciarone.

Each biography contains vast amounts of material having nothing to do with baseball, as Cartwright's involvement with the game consumed only a brief period of his life. Nucciarone's narrative covers the baseball portion of her subject's life in pages 12–22, and Martin devotes only slightly more space to baseball. Aside from that commonality, however, the books have distinctly different structures. Nucciarone's is divided into two parts. The first is the story of Cartwright's life; the second, a critical examination of the evidence that has led others to call Cartwright baseball's "inventor" or at least a prominent contributor to its development. Martin's book (the main text is only 133 pages) is divided into twenty-five short chapters and two appendices. The sequence is primarily chronological, although it is segmented thematically.

Both books document the long, interesting, and accomplished life of an entrepreneur, adventurer, and family man. From there, however, the two works move in dramatically different directions. Nucciarone tells us that Cartwright was active in the formation of the Knickerbocker Base Ball Club, was present when major steps were taken to change the old versions of baseball, and was a good player. Martin gives Cartwright credit for "inventing" virtually every aspect of modern baseball except the designated-hitter rule, proclaiming



LEFT: COURTESY OF COLUMBIA UNIVERSITY PRESS
RIGHT: COURTESY OF UNIVERSITY OF NEBRASKA PRESS

unequivocally that "Alexander Joy Cartwright invented baseball in 1845." He calls him a pioneer of California baseball and, finally, states that "Alexander Cartwright must be credited for stirring the passion for baseball in Hawaii." According to Martin, Cartwright invented the base on balls (!), established thirty paces as the distance between bases (he even gives us a detailed account of Cartwright's thought process and methodology), and established the length of a game at three innings (a claim Martin does not document and that I have never heard postulated elsewhere).

How can two people, each with access to many of the same source documents, reach such radically different conclusions? Could Nucciarone have missed so many significant accomplishments? One can predict the probable direction of her work from the fact that the foreword is written by noted historian John Thorn, an enthusiastic debunker of the Cartwright legend. While Nucciarone is not as hard on Cartwright and his contributions as Thorn has been, she is cautious, taking a fresh look at familiar sources and refusing to accept, without solid proof, the orthodox view of Cartwright's involvement with baseball in its early days. Clearly frustrated by the lack of original source documents regarding Cartwright and baseball, she admirably refuses to yield to the temptation to fill in the blanks or ignore discrepancies in order to reach an appealing conclusion. When the evidence is absent, contradictory, or dubious, she tells the reader. She concludes only what she can comfortably support with credible evidence.

Martin, on the other hand, gullibly accepts third- and fourth-hand accounts, most of them produced decades after the events in question. He accepts questionable statements made by Albert Spalding in *America's National Game*, which most scholars take with a few grains of salt. He accepts unsupported assertions in Charles Peverelly's 1866 history of baseball when they suit his purposes. As partial "proof" that Cartwright invented baseball, Martin cites a statement, delivered to the Mills Commission in 1905, by 58-year-old former star player George Wright concerning events that occurred sixty years earlier, two years before he was born. Martin also points out that noted historian Babe Ruth thought Cartwright invented baseball. He more substantively hangs his hat on the 1877 statement of former Knickerbocker president Duncan Curry, which, as Nucciarone indicates, Curry contradicted on other occasions. Martin's source for the thesis that Cartwright played a major role in the development of baseball in California is an article by Angus Macfarlane, who plainly states that Cartwright had nothing to do with the 1851 games he describes. The claims regarding Cartwright's popularization of baseball in Hawaii are set forth without citation.

Documentation is a problem throughout Martin's book; it is surprisingly poor for a work published by a prestigious university press. There is no bibliography, and the notes are presented in block format by chapter, without page identification, which makes them hard to follow. Nucciarone's notes are voluminous and much easier to trace. She also provides sufficient background so that a person with no prior knowledge of early baseball can enjoy her book and understand the issues surrounding the development of the game as well as the difficulties involved in anointing an "inventor."

In his acknowledgments, Martin thanks three research assistants. Nucciarone did not mention any assistants, and it appears that she was a one-woman task force, spending nearly eight years researching, following leads, and critically examining documents for authenticity. While Martin utilized many source documents, he made a number of careless errors, including repeatedly misspelling the name of Knickerbocker catcher Charles DeBost (he calls him DeBorst); putting Cartwright's son DeWitt in a boarding school in Sheffield (rather than Suffield), Connecticut; dating an interview with Doc Adams as 1876 rather than 1896;

dressing the Knicks in woolen uniforms in 1845 (they didn't adopt formal uniforms until much later); stating that Abner Doubleday was born in Cooperstown; and placing the death of Cartwright's infant daughter in the wrong place and at the wrong age. Such errors are indicative of a writer who is unfamiliar with the subject matter and relied on others to conduct his research.

One of the major divergences between the two books is the degree of credence placed on Cartwright's diary of his overland journey to California. The original journal was destroyed, and the extant versions are various transcriptions by Cartwright's descendants. Peterson and Martin accepted the transcriptions as accurate, while Nucciarone did not. She employed a handwriting expert and concluded that even those parts previously thought to be in Cartwright's own hand were not—and that the transcriptions included embellishments intended to secure Alexander a place in baseball history.

The story of Alexander Cartwright from 1850 until his death is deeply intertwined with the history of Hawaii. The bulk of the biographical section of Nucciarone's book is more a history of late-nineteenth-century Hawaii than the story of Alexander Cartwright. Martin gives a much more detailed account of Cartwright's life and business activity and attempts to delve into the personality and character of his subject, something Nucciarone does not do. The Hawaii portion of Martin's book is quite interesting and the best part of the biography, for the author has an engaging writing style that flows easily across the page. He dug deeply into Cartwright's correspondence and sets forth details (some rather juicy and salacious) regarding the Cartwright family that I have not seen in other portraits. I was enjoying the Hawaii section immensely until I reached the chapter on the Spalding world tour. Digressing for a paragraph on the Cincinnati Red Stockings and the background of Spalding, Martin again demonstrates his superficial and frequently inaccurate knowledge of baseball history.

If you are looking for an entertaining read about the events of Alexander Cartwright's life, you may find Martin's book a pleasant diversion. If you are looking for sound baseball history and critical, insightful analysis of Cartwright's involvement with the origins of the game, read Nucciarone's book instead. ■

Contributors

ROGER I. ABRAMS is Richardson Professor of Law, Northeastern University. He is the author of four baseball books, including *Legal Bases: Baseball and the Law* (Temple University Press, 1998) and *The Dark Side of the Diamond: Gambling, Violence, Drugs and Alcoholism in the National Pastime* (Rounder, 2008).

SAMUEL A. ALITO JR. is associate justice of the U.S. Supreme Court.

MARK ARMOUR writes baseball from Corvallis, Oregon. His biography of Joe Cronin will be published by the University of Nebraska Press in March 2010.

GENE CARNEY was the author of *Burying the Black Sox: How Baseball's Cover-Up of the 1919 World Series Fix Almost Succeeded* (Potomac, 2006), *Romancing the Horsehide: Baseball Poems on Players and the Game* (McFarland, 1993), and dozens of baseball articles. He died in July 2009.

ROSS E. DAVIES is professor of law at George Mason University and editor of *The Green Bag: An Entertaining Journal of Law*.

MILLARD J. FISHER, a consultant to the Centers for Disease Control and Prevention, writes baseball from Stone Ridge, Georgia.

ROSS J. GORE is a doctoral candidate in computer science at the University of Virginia.

TIMOTHY HIGHLEY is assistant professor in computer science at La Salle University.

STEVEN A. KING, a physician and clinical professor at the New York University School of Medicine, is the author of more than one hundred publications on pain management, his area of specialization. He is writing a book about baseball and politics in New York City in the early twentieth century.

TRENT McCOTTER is a law student at the University of North Carolina at Chapel Hill.

ALEX REISNER is a freelance computer programmer and Internet technical consultant. His baseball-stats website (featuring many graphs) is alexreisner.com/baseball/stats.

TOM RUANE, a frequent contributor to *The Baseball Research Journal*, is director of Retrosheet.

WILLIAM J. RYCZEK is author, most recently, of *Baseball's First Inning: A History of the National Pastime Through the Civil War* (McFarland, 2009).

DAVID W. SMITH, a frequent contributor to SABR publications, is founder of Retrosheet.

CAMERON T. SNAPP is senior consultant at CapTech Ventures in Richmond, Virginia.

LYLE SPATZ, editor of *The SABR List and Record Book: Baseball's Most Fascinating Records and Unusual Statistics* (Scribner, 2007) and author of scores of baseball articles, is coauthor, with Steve Steinberg, of the forthcoming *1921: The Yankees, the Giants, and the Battle for Baseball Supremacy in New York* (Nebraska, 2010).

STEVE STEINBERG is author of *Baseball in St. Louis, 1900–1925* (Arcadia, 2004) and coauthor, with Lyle Spatz, of the forthcoming *1921: Babe Ruth, John McGraw, and the Battle for Baseball Supremacy in New York* (Nebraska, 2010).

MATTHEW SWARTZ, an economist, writes "Ahead in the Count," a weekly column at Baseball Prospectus. His areas of research include BABIP (batting average on balls in play), DIPS (defense-independent pitching statistics), and evaluation of trades and signings.

CORRECTIONS

• *The Baseball Research Journal*, volume 38, number 1, summer 2008

"Does Baseball Deserve This Black Eye: A Dissent from the Universal Casting of Shame and Blame on Kenesaw Mountain Landis for Baseball's Failure to Sign Black Players Before 1946," by Norman L. Macht, 26–30.

Page 26: The correct spelling of the name of the Roman general is Belisarius.

Page 27: The correct spelling of the name of the Reds' owner in the 1940s is Powel Crosley.

Page 29: The correct spelling of the name of the woman-suffrage leader is Carrie Chapman Catt.

"Robinson, Race, and Brooklyn," by Leverett T. Smith, 117–22.

Page 118, photo caption: The correct date is April 1947, and Jackie Robinson has just become a member of the Brooklyn Dodgers, although he is shown wearing the uniform of the Montreal Royals. (The error was the editor's, not the author's.) See Paul Hirsch's letter on page 6 of this issue.

• *The National Pastime: Monumental Baseball—The National Pastime in the National Capital Region*, SABR convention journal, 2008

"Stories in Washington Baseball History," by Gary Sarnoff, 63–66.

Page 64: The correct spelling of the Tigers' ballpark in 1933 is Navin Field.

