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## Lawyers in the Baseball Hall of Fame

Christian H. Brill

Howard W. Brill

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## ESSAY

# LAWYERS IN THE BASEBALL HALL OF FAME<sup>1</sup>

CHRISTIAN H. BRILL\* & HOWARD W. BRILL\*\*

## I. INTRODUCTION

On February 3, 1936, the Baseball Hall of Fame announced its inaugural group of members.<sup>2</sup> The five charter inductees were baseball legends – Ty Cobb, Babe Ruth, Honus Wagner, Christy Mathewson and Walter Johnson.<sup>3</sup> Over the next three years, twenty more members were named.<sup>4</sup> Cooperstown, New York became the home of the Hall of Fame because of the historical “fact” (now considered fiction) that baseball had its beginnings in the 1830s in the small

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\* Christian H. Brill is the founder of Brill Law Offices, LLC in Columbus, Ohio and Fayetteville, Arkansas.

\*\* Howard W. Brill is the Vincent Foster Professor of Legal Ethics & Professional Responsibility at the University of Arkansas School of Law. The authors’ previous joint publications include *Take Me Out to the Hearing: Major League Baseball Players Before Congress*, 5 ALB. GOV’T L. REV. 90 (2012); *Baseball Mascots and the Law*, 65 U. KAN. L. REV. 105 (2016); and *ARKANSAS LAW OF DAMAGES* (6th ed. 2014 & Supp. 2023).

<sup>1</sup> An earlier version of this paper was originally presented at the Thirtieth Cooperstown Symposium on Baseball and American Culture, 2018.

<sup>2</sup> *History of the Museum*, NAT’L BASEBALL HALL OF FAME, <https://baseballhall.org/about-the-hall> (last visited Jan. 8, 2024); see also Associated Press, *Georgian Gets 222 Votes, 4 Short of Perfect Score and 7 More Than Ruth and Wagner -- Mathewson and Johnson Only Others With Enough Ballots to be Named in Nation-Wide Poll*, N.Y. TIMES (Feb. 3, 1936), [https://timesmachine.nytimes.com/timesmachine/1936/02/03/88629798.html?pdf\\_redirect=true&ip=0&pageNumber=23](https://timesmachine.nytimes.com/timesmachine/1936/02/03/88629798.html?pdf_redirect=true&ip=0&pageNumber=23). The New York Times buried the news on page 23 – the main stories of the day included congressional criticism of the Tennessee Valley Authority, delivery of emergency supplies by dirigible to residents of an ice-surrounded Chesapeake Bay island, and a “embittered and sullen” weather-predicting groundhog at the Bronx Zoo (quoting Associated Press, *10 Cold Grips City and Mr. Groundhog*, N.Y. TIMES (Feb. 3, 1936), [https://timesmachine.nytimes.com/timesmachine/1936/02/03/issue.html?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1936/02/03/issue.html?pdf_redirect=true&ip=0)); see also *Site Map*, N.Y. TIMES (Feb. 3, 1936), <https://www.nytimes.com/sitemap/1936/02/03/>.

<sup>3</sup> *History of the Museum*, *supra* note 2.

<sup>4</sup> *1936-1939*, NAT’L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/past-inductions/1936-1939> (last visited Jan. 8, 2024).

upstate New York village.<sup>5</sup> The first induction ceremony was held in June 1939, with all eleven living members in attendance.<sup>6</sup>

As of January 2024, the Hall of Fame has grown to a total of 346 elected members - 273 players, 10 umpires, 23 managers, and 40 executives.<sup>7</sup> Although these inductees are first and foremost associated with baseball, many of them have had other careers outside the game.<sup>8</sup> Hall of Famers have been vaudeville performers (King Kelly);<sup>9</sup> night watchmen (Cool Papa Bell);<sup>10</sup> bowling alley operators (Nellie Fox);<sup>11</sup> florists (Lou Brock);<sup>12</sup> funeral home owners (Andre Dawson);<sup>13</sup> photographers (Randy Johnson);<sup>14</sup> ranchers (Nolan Ryan);<sup>15</sup> and attorneys.<sup>16</sup>

In all, eleven attorneys are enshrined in Cooperstown.<sup>17</sup> These attorneys all attended law school and have a legal degree (either a Juris Doctor or a Bachelor of Laws) – but they may or may not have been admitted to a state bar, and they

<sup>5</sup> *History of the Museum*, *supra* note 2.

<sup>6</sup> 1936-1939, *supra* note 4.

<sup>7</sup> *Hall of Famers by Election Method*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-fame/hall-of-famers-by-election-method> (last visited Jan. 8, 2024).

<sup>8</sup> *See infra* Part II.

<sup>9</sup> Peter M. Gordon, *King Kelly*, SOC'Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/King-Kelly/> (last visited Jan. 8, 2024).

<sup>10</sup> William “Brother” Rogers, *Cool Papa Bell*, MISS. HIST. NOW (August 2008), <http://www.mshistorynow.mdah.ms.gov/articles/277/cool-papa-bell>.

<sup>11</sup> *See* Jim Hook, Chambersburg Public Opinion, *Baseball Fan Buys Local Baseball Legend Nellie Fox's Namesake Bowling Alley*, PUB. OP. ONLINE, <https://www.publicopiniononline.com/story/news/2018/01/20/baseball-fan-buys-local-baseball-legend-nellie-foxs-namesake-bowling-alley/1044259001/> (Jan. 20, 2018, 11:37 AM); *see also* NELLIE FOX BOWL & SPORT SHOP, <https://www.nelliefoxbowl.net> (last visited Jan. 8, 2024).

<sup>12</sup> Charlie Barouh, Associated Press, *Cardinals' Lou Brock Runs St. Louis Florist Shop*, THE NEV. DAILY MAIL (Jan. 23, 1969), <https://news.google.com/newspapers?nid=1908&dat=19690123&id=uVsfAAAAIBAJ&sjid=a9QEAAAAIBAJ&pg=2068,1056870&hl=en>.

<sup>13</sup> Bob Nightengale, *Andre Dawson Embraces Death in New Life Running Funeral Home: 'It's Not for the Weak'*, USA TODAY, <https://www.usatoday.com/story/sports/mlb/columnist/bob-nightengale/2018/05/08/andre-dawson-hall-famer-funeral-home-florida-retirement/590358002/> (May 8, 2018, 2:28 PM) (Dawson joins Waite Hoyt – known as the “Merry Mortician” – as the second Hall of Famer in the funeral business).

<sup>14</sup> *See About*, RANDY JOHNSON PHOTOGRAPHY, <https://rj51photos.com/about> (last visited Jan. 8, 2024) (quoting Johnson: “[M]y passion for photography . . . began when I studied photojournalism at the University of Southern California from 1983-85. Baseball became my occupation for two decades but my love of photography never left”).

<sup>15</sup> Gene Hall, *Texas Ranger, Texas Rancher—The Passion of Nolan Ryan*, AM. CATTLEMEN, Nov. 2011, at 18, 20 (quoting Ryan: “The ranching and cattle business is a passion of mine. It’s been that way ever since I was a little bitty boy. . . I enjoy being in the working pens working cattle. That’s something I get a lot of enjoyment and satisfaction out of”).

<sup>16</sup> *See infra* Part II.

<sup>17</sup> *Id.*

may or may not have actually practiced law.<sup>18</sup> Three other Hall of Famers do not meet that criteria but nonetheless are worthy of inclusion here for their connection with the law.<sup>19</sup> And two active attorneys may one day join their fellow lawyers in the Hall.

## II. IN THE LINEUP: ATTORNEY INDUCTEES

### A. *Kenesaw Mountain Landis (1944)*

The first lawyer enshrined in Cooperstown was Judge Kenesaw Mountain Landis.<sup>20</sup> Baseball's first and most powerful commissioner, Landis ruled for twenty-four years as the ultimate authority in the game and is credited with restoring confidence in baseball after the Black Sox scandal of 1919.<sup>21</sup>

Born in a small village in Ohio, Landis grew up in Indiana.<sup>22</sup> At seventeen, he became a circuit court reporter; at twenty-three, he was admitted to the Indiana bar - which at the time required neither an examination nor a degree.<sup>23</sup> He practiced law in Marion, Indiana for a few months to little success.<sup>24</sup>

Then, apparently to improve his reputation and financial prospects, Landis decided to pursue formal legal training.<sup>25</sup> Around 1889, Landis enrolled in Cincinnati's YMCA Law School<sup>26</sup> (now Salmon P. Chase College of Law)<sup>27</sup> but transferred to Union College of Law in Chicago (now Northwestern Pritzker School of Law) for his final year.<sup>28</sup> Although he struggled in civil procedure and

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<sup>18</sup> *Id.*

<sup>19</sup> See *infra* Part III.

<sup>20</sup> Dan Busby, *Kenesaw Mountain Landis*, SOC'Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/kenesaw-landis/> (last visited Jan. 8, 2024).

<sup>21</sup> *Kenesaw Landis*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/landis-kenesaw> (last visited Jan. 8, 2024).

<sup>22</sup> Busby, *supra* note 20.

<sup>23</sup> See DAVID PIETRUSZA, *JUDGE AND JURY: THE LIFE AND TIMES OF JUDGE KENESAW MOUNTAIN LANDIS 10-11* (1998).

<sup>24</sup> *Id.* at 11 (noting that Landis "read law with the firm of Custer and Stevenson in Marion, Indiana").

<sup>25</sup> J. G. TAYLOR SPINK, *JUDGE LANDIS AND TWENTY-FIVE YEARS OF BASEBALL 7* (8<sup>th</sup> ed. 1953).

<sup>26</sup> PIETRUSZA, *supra* note 23, at 12; see also SPINK, *supra* note 25, at 7-8 (quoting Landis: "I started my law course at the Y.M.C.A. Law School in Cincinnati and finished it at a similar school in Chicago"); but see Jim Pickering, *'Night Law School: A Legacy to Legal Education*, CHASE, Spring 2003, at 7, 8 (noting that the Cincinnati YMCA School of Law was not founded until 1893). It is possible that Landis's legal classes were held under the auspices of the Cincinnati YMCA College of Commerce. See HARRY L. SINGER, *THE STORY OF THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF CINCINNATI AND HAMILTON COUNTY 77-78* (1953) (school founded in 1885).

<sup>27</sup> See Pickering, *supra* note 26.

<sup>28</sup> See PIETRUSZA, *supra* note 23, at 12; see also *History*, NW. PRITZKER SCH. OF L., <https://www.law.northwestern.edu/about/history/> (last visited Jan. 8, 2024).

property law,<sup>29</sup> Landis nonetheless graduated and joined the Illinois bar in 1891.<sup>30</sup>

He then opened practice in Chicago, where - with the exception of two years working in the Department of State in the Grover Cleveland administration<sup>31</sup> - he would practice law until 1905.<sup>32</sup> Over the next several years, Landis served on the Union Law School faculty<sup>33</sup> and built a successful corporate practice.<sup>34</sup> He defended railroads<sup>35</sup> and streetcar companies<sup>36</sup> against personal injury claims; handled life insurance disputes;<sup>37</sup> appeared on behalf of a voice teacher accused of immoral behavior;<sup>38</sup> and was retained by the federal government to investigate an alleged beef price-fixing scheme.<sup>39</sup> In 1905, Landis - an active progressive in the Republican Party<sup>40</sup> - left his practice when he was nominated by President Theodore Roosevelt and confirmed by the Senate for a new federal judgeship for the Northern District of Illinois.<sup>41</sup>

During his time on the bench, Landis's handling of high-profile cases brought him national attention.<sup>42</sup> He subpoenaed John D. Rockefeller to testify in the Standard Oil antitrust cases and assessed a fine of \$29,240,000 - at the

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<sup>29</sup> PIETRUSZA, *supra* note 23, at 12 (quoting Landis: "I was very weak on 'pleading and real property'").

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 14-28 (describing Landis' time as personal secretary to Secretary of State Walter Gresham).

<sup>32</sup> Busby, *supra* note 21.

<sup>33</sup> PIETRUSZA, *supra* note 23, at 12. Landis later served as a distinguished lecturer at the new Marquette University College of Law; he apparently delivered only one lecture on "Public Criticism of the Judiciary" in 1909. See J. Gordon Hylton, *Judge Kenesaw Mountain Landis: Marquette University Law Professor?*, MARQ. UNIV. L. SCH. FAC. BLOG, (June 17, 2010), <https://law.marquette.edu/facultyblog/2010/06/judge-kenesaw-mountain-landis-marquette-university-law-professor/>.

<sup>34</sup> PIETRUSZA, *supra* note 23, at 29.

<sup>35</sup> See, e.g., *Chicago & E.I.R. Co. v. Driscoll*, 107 Ill. App. 615, 616 (Ill. App. Ct. 1903), *aff'd*, 69 N.E. 620 (Ill. 1903) (death of railroad employee); *Chicago & E.I.R. Co. v. Wallace*, 104 Ill. App. 55, 56 (Ill. App. Ct. 1902) (passenger was thrown from train to platform); *Chicago & E.I.R. Co. v. Huston*, 95 Ill. App. 350, 351 (Ill. App. Ct. 1901), *aff'd*, 63 N.E. 1028 (Ill. 1902) (boy struck and killed by locomotive).

<sup>36</sup> See, e.g., *Calumet Elec. St. Ry. Co. v. Jennings*, 83 Ill. App. 612, 612 (Ill. App. Ct. 1899) (passenger dislocated clavicle when car left track); *McNulta v. Hendele*, 92 Ill. App. 273, 273 (Ill. App. Ct. 1899) (passenger bruised knee when car left track).

<sup>37</sup> *Kavanagh v. Omaha Life Ass'n*, 84 F. 295, 295 (C.C.N.D. Ill. 1897).

<sup>38</sup> *Duvivier v. French*, 104 F. 278, 278-79 (7th Cir. 1900) (representing British voice teacher against claims of immoral behavior with female students published by newspaper).

<sup>39</sup> *Hunting a Beef Trust; Federal Grand Jurors Looking for Evidence*, N.Y. TIMES (Dec. 5, 1896), [https://timesmachine.nytimes.com/timesmachine/1896/12/05/108266757.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1896/12/05/108266757.pdf?pdf_redirect=true&ip=0).

<sup>40</sup> Busby, *supra* note 20.

<sup>41</sup> *Id.*; 40 CONG. REC. 28, at 33 (1905).

<sup>42</sup> Busby, *supra* note 20. For a comprehensive discussion of Landis's career and rulings, see Shayna M. Sigman, *The Jurisprudence of Judge Kenesaw Mountain Landis*, 15 MARQ. SPORTS L. REV. 277 (2005).

time, the largest fine that had ever been issued in the United States.<sup>43</sup> His love of baseball and his antitrust rulings came into conflict when a new baseball league (known as the Federal League) challenged the National League.<sup>44</sup> And Landis presided over criminal trials in which the government prosecuted leaders of the Socialist Party under the Espionage Act of 1917 and the Sedition Act of 1918.<sup>45</sup>

After long Byzantine negotiations among themselves, the sixteen major league owners offered Landis the position as the first commissioner of baseball in 1921.<sup>46</sup> Before agreeing to serve, he first demanded that the owners grant him absolute decision-making power, that he be given investigative powers similar to that of a judge, and that his powers would authorize “preventive, remedial or punitive action [as] appropriate . . . against Major Leagues, Major League Clubs or individuals.”<sup>47</sup> The original Major League Agreement gave the Commissioner the power to act “in the best interests of the national game of [b]aseball.”<sup>48</sup> That unquestioned authority has existed ever since.<sup>49</sup> Beyond the

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<sup>43</sup> Sigman, *supra* note 42, at 294-95; *see* United States v. Standard Oil Co., 148 F. 719 (N.D. Ill. 1907); United States v. Standard Oil Co. of Ind., 155 F. 305 (N.D. Ill. 1907).

<sup>44</sup> Sigman, *supra* note 42, at 296; *see* Fed. League of Pro. Baseball Clubs v. Nat'l League of Pro. Baseball Clubs, Equity Case No. 373 (U.S.D.C. Chi. 1915). Landis's long delay in ruling eventually led the parties to settle their dispute.

<sup>45</sup> Sigman, *supra* note 42, at 299-303; *see* United States v. Haywood, Criminal Case No. 6125 (U.S.D.C. Chi. 1918); United States v. Berger, Criminal Case No. 6260 (U.S.D.C. Chi. Feb. 20, 1919) (juries convicted party leaders of disloyal behavior).

<sup>46</sup> PIETRUSZA, *supra* note 23, at 171.

<sup>47</sup> MAJOR LEAGUE CONSTITUTION, Art. II (2005), [https://ipmall.law.unh.edu/sites/default/files/hosted\\_resources/SportsEntLaw\\_Institute/League%20Constitutions%20&%20Bylaws/MLConstitutionJune2005Update.pdf](https://ipmall.law.unh.edu/sites/default/files/hosted_resources/SportsEntLaw_Institute/League%20Constitutions%20&%20Bylaws/MLConstitutionJune2005Update.pdf); *see also* Jonathan M. Reinsdorf, *The Powers of the Commissioner in Baseball*, 7 MARQ. SPORTS L. J. 211, 220-21 (1996); *see also* Milwaukee Am. Ass'n v. Landis, 49 F.2d 298 (N.D. Ill. 1931) (challenging powers of commissioner).

<sup>48</sup> MAJOR LEAGUE CONSTITUTION, *supra* note 47, at § 2(b).

<sup>49</sup> *See* LARRY MOFFI, *THE CONSCIENCE OF THE GAME: BASEBALL'S COMMISSIONERS FROM LANDIS TO SELIG* 26 (2006) (“The best interests of the game are as fundamental to the office of commissioner of baseball as a fastball and a curve are to a major league pitcher”). In upholding the power of the Commissioner, the Seventh Circuit wrote in *Charles O. Finley and Co. v. Kuhn*, 569 F.2d 527, 537 (7th Cir. 1978):

Standards such as the best interests of baseball, the interests of the morale of the players and the honor of the game, or 'sportsmanship which accepts the umpire's decision without complaint,' are not necessarily familiar to courts and obviously require some expertise in their application. 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

(quoting the "Pledge to Support the Commissioner" from MLB league and club presidents (Jan. 12, 1921)).

express grant of authority, the owners vowed, in a signed oath, never to publicly criticize him or his decisions.<sup>50</sup>

When appointed Commissioner, Landis continued to serve as a federal district judge.<sup>51</sup> His dual positions created controversy in the American Bar Association. At its September 3, 1921 Annual Meeting, it adopted a resolution giving Judge Landis “our unqualified condemnation.”<sup>52</sup> By drawing a salary of \$7,500 as a federal judge, and concurrently accepting \$42,500 as Commissioner, he demonstrated “conduct unworthy of the office of Judge, derogatory to the dignity of the Bench, and undermining public confidence in the independence of the judiciary.”<sup>53</sup> Perhaps because of the resolution and the intemperate tone of the debate,<sup>54</sup> Judge Landis resigned his judgeship, effective February 28, 1922.<sup>55</sup>

Landis’s rulings as commissioner were as sweeping as his judicial decisions as he sought to uphold the “integrity” of the game.<sup>56</sup> He issued a life-time ban against eight members of the Chicago White Sox who had played in the 1919 World Series.<sup>57</sup> Landis suspended Babe Ruth for one-quarter of the 1922 season after Ruth ignored his directive that he not barnstorm during the offseason.<sup>58</sup> And he permanently banned a player acquitted on theft charges, ruling that his “mere presence in the line-up would inevitably burden patrons of the game with grave apprehension as to its integrity.”<sup>59</sup>

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<sup>50</sup> PIETRUSZA, *supra* note 23, at 174 (“[W]e assure him that each of us will acquiesce in his decisions even when we believe them mistaken and that we will not discredit the sport by public criticism of him and of one another”).

<sup>51</sup> Apparently Landis thought he had available a few days a month to act as Commissioner; and further, the federal court closed from June to mid-September, the heart of the baseball season. *See* PIETRUSZA, *supra* note 23, at 170.

<sup>52</sup> *Forty-Fourth Annual Association Meeting*, 9 A.B.A. J. 470, 477 (1921).

<sup>53</sup> *Id.*

<sup>54</sup> The comments included “yield[ing] to the temptations of avarice and private gain[.]” “drag[ging] the ermine in the mire[.]” and “the withering scorn of the profession against the man who had stained its honor.” *Id.*

<sup>55</sup> *Landis, Kenesaw Mountain*, FED. JUD. CTR., <https://www.fjc.gov/history/judges/landis-kenesaw-mountain> (last visited Jan. 8, 2024).

<sup>56</sup> Busby, *supra* note 20.

<sup>57</sup> *White Sox Players Banned by Landis; Commissioner Puts Eight Indicted Baseball Players on the Ineligible List*, N.Y. TIMES (Mar. 13, 1921), [https://timesmachine.nytimes.com/timesmachine/1921/03/13/112674834.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1921/03/13/112674834.pdf?pdf_redirect=true&ip=0).

<sup>58</sup> *Ruth is Suspended; Fined Series Money; Home Run King Penalized by Landis for Barnstorming— Out Until May 20*, N.Y. TIMES (Dec. 6, 1921), [https://timesmachine.nytimes.com/timesmachine/1921/12/06/98768988.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1921/12/06/98768988.pdf?pdf_redirect=true&ip=0).

<sup>59</sup> Sigman, *supra* note 42, at 314; *Landis Declares Kauff Ineligible; Rules Giant Player out of Baseball Because of Indictments in Auto Case*, N.Y. TIMES (Apr. 8, 1921), [https://timesmachine.nytimes.com/timesmachine/1921/04/08/98665861.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1921/04/08/98665861.pdf?pdf_redirect=true&ip=0).

Other Landis rulings applied legal principles of fairness and equity.<sup>60</sup> When a foul ball of a Boston Red Sox pitcher hit a fan, Landis ordered Boston to pay the judgment.<sup>61</sup> And when Branch Rickey developed a farm system and stockpiled promising players in the minor leagues, Landis granted free agency to seventy-four players in the Cardinals organization.<sup>62</sup>

Landis died in office in 1944; his impact on the game was so significant that he was unanimously elected to the Hall of Fame only two weeks later.<sup>63</sup>

### B. *Hughie Jennings (1945)*

The premier shortstop of his era, 1945 inductee Hughie Jennings was a cornerstone of the pennant-winning Baltimore Orioles in 1894-1896.<sup>64</sup> Known for his famous “Ee-yah!” yell,<sup>65</sup> Jennings later managed Ty Cobb and the Detroit Tigers from 1907 to 1920, leading the team to three pennants in his first three years - but losing in the World Series each time.<sup>66</sup> More than 100 years after his career ended, Jennings remains the single season (51) and career (287) hit-by-pitch record holder.<sup>67</sup>

Jennings’ legal career began during his playing career.<sup>68</sup> After completing the 1899 season as a member of the Brooklyn Superbas, Jennings matriculated at Cornell Law School, where he also coached the Cornell baseball team in

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<sup>60</sup> Sigman, *supra* note 42, at 279.

<sup>61</sup> *Id.* at 316-318. This article analyzes Landis’ opinions on the bench and as commissioner. The author concludes that he “(a) relied on a common set of principles in reaching his decisions; (b) used opinion writing or public pronouncement to rationalize and legitimize results by making them seem inevitable and morally right; and (c) carefully employed the press, guarding some material as private while sharing other information.” *Id.* at 279.

<sup>62</sup> *Id.* at 320-21.

<sup>63</sup> Busby, *supra* note 20.

<sup>64</sup> *Hughie Jennings*, NAT’L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/jennings-hughie> (last visited Jan. 8, 2024).

<sup>65</sup> See C. Paul Rogers III, *Hughie Jennings*, SOC’Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/c9d82d83> (last visited Jan. 8, 2024) (“Jennings’ famed, piercing ‘Ee-yah’ yell could be heard all over the ballpark. His characteristic pose from his coaching box was with arms spread, hands balled in fists and right leg hoisted high like some type of Native American rain dance.”); Jennings also took credit for contributing “Att-a-boy” to the English language, a shortened version of “That’s the boy” encouragement to his players. *Id.*; see also “Attaboy,” *Our Best Tribute, is Now Laid to Hugh Jennings; Famous Baseball Manager Told of Origin in a Letter— Was Long in Dispute*, N.Y. TIMES (Feb. 19, 1928), <https://timesmachine.nytimes.com/timesmachine/1928/02/19/95554582.html?pageNumber=137>.

<sup>66</sup> *Hughie Jennings*, *supra* note 64.

<sup>67</sup> *Id.*; see also *Avila v. Citrus Cmty. Coll. Dist.*, 131 P.3d 383, 393 (Cal. 2006) (“Being hit by a pitch is an inherent risk of baseball”).

<sup>68</sup> *Hughie Jennings*, *supra* note 64.



exchange for tuition.<sup>69</sup> By the next year, he had already put his in-progress legal education to work, helping to "found the Players Protective Association, baseball's second union[.]"<sup>70</sup>

Jennings placed a high priority on law school, and he fully intended graduation to mark the end of his baseball career.<sup>71</sup> In January 1901, he promised "I will never play professional baseball again. I have made arrangements to take a full three years law course at Cornell. When I leave Cornell I will begin practice with a well known New York firm who have made me an exceptional offer."<sup>72</sup> He refused to report to the Superbas until June 1901 so that he could finish his classes.<sup>73</sup> He returned to Cornell after the 1901, 1902, and 1903 seasons.<sup>74</sup>

As graduation approached, Jennings remained ready to give up baseball and focus on the practice of law.<sup>75</sup> In November 1903, the New York Times reported that the law student (who was also the manager of the minor league Baltimore Orioles) "is eager to begin the practice of his profession" and "will undoubtedly give up baseball after [the 1904 season]."<sup>76</sup> "[O]ne cannot go away from his office for four months, leave his law business unattended, and expect to get on well," Jennings said at the time.<sup>77</sup>

<sup>69</sup> See Rogers, *supra* note 65; but see Jennings Signs as Cornell's Coach, N.Y. TIMES (Dec. 21, 1900), [https://timesmachine.nytimes.com/timesmachine/1900/12/21/102438721.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1900/12/21/102438721.pdf?pdf_redirect=true&ip=0) (reporting that Jennings had "finally decided to enter Cornell College of Law, to take a degree"); see also JACK SMILES, "EE-YAH": THE LIFE AND TIMES OF HUGHIE JENNINGS, BASEBALL HALL OF FAME 88 (2005).

<sup>70</sup> ED EDMONDS & FRANK G. HOUDEK, BASEBALL MEETS THE LAW: A CHRONOLOGY OF DECISIONS, STATUTES AND OTHER LEGAL EVENTS 22 (2017); BRYAN DI SALVATORE, A CLEVER BASE-BALLIST: THE LIFE AND TIMES OF JOHN MONTGOMERY WARD 369-70 (1999) (detailing that Hall of Famer Ward declined to be involved); see also *Baseball Badly Mixed; Players Determined that League Managers will Abdicate; Conferences Will be Held*, N.Y. TIMES, 9 (Dec. 16, 1900), [https://timesmachine.nytimes.com/timesmachine/1900/12/16/102428430.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1900/12/16/102428430.pdf?pdf_redirect=true&ip=0) (describing negotiations between association and owners); see also Ross E. Davies, *Along Comes the Players Association: The Roots and Rise of Organized Labor in Major League Baseball*, 16 N.Y.U. J. LEGIS. & PUB. POL'Y 321, 326 (2013) (noting Jennings served as secretary of union).

<sup>71</sup> SMILES, *supra* note 69, at 96.

<sup>72</sup> *Id.*

<sup>73</sup> Rogers, *supra* note 65.

<sup>74</sup> See Jennings Returns to Cornell, N.Y. TIMES (Oct. 5, 1901), <https://timesmachine.nytimes.com/timesmachine/1901/10/05/101081961.html?pageNumber=7> ("Hugh Jennings, first baseman of the Philadelphia National League team, returned to Cornell to-day to resume the study of law. He will be in his second year and will be the coach of the Varsity baseball nine for the fourth consecutive season"); see also SMILES, *supra* note 69, at 106.

<sup>75</sup> SMILES, *supra* note 60, at 96.

<sup>76</sup> Jennings to Quit Game; Baseball Player Will Retire After Summer's Campaign, N.Y. TIMES (Nov. 21, 1903), [https://timesmachine.nytimes.com/timesmachine/1903/11/21/105067042.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1903/11/21/105067042.pdf?pdf_redirect=true&ip=0).

<sup>77</sup> *Id.*

In the end, Jennings was never ready to give up the game.<sup>78</sup> Although he left Cornell two semesters short of graduation, he had completed enough coursework to take the bar exam.<sup>79</sup> Jennings was admitted to the Maryland bar in January 1905 and began practicing law in Baltimore, where he remained the Orioles manager.<sup>80</sup> Shortly after accepting an offer to manage the Tigers in 1907, he was admitted to the Pennsylvania bar in order to begin practicing law in the offseason with his brother in Scranton, Pennsylvania.<sup>81</sup>

Jennings's skills extended from the ballpark to the courtroom.<sup>82</sup> He was a trial lawyer with an extremely varied docket.<sup>83</sup> Jennings handled cases of theft,<sup>84</sup> automobile accidents,<sup>85</sup> criminal (murder) defense,<sup>86</sup> and to the surprise of many, a negligence case in which he represented a plaintiff whose prize rooster was killed by a teenage foul ball hitter in a youth baseball game.<sup>87</sup> In 1912, Jennings was apparently retained to defend Philadelphia Phillies owner Horace Fogel against claims of libel relating to his public statements that umpires favored the Phillies' opponents; however, Jennings did not appear at the disciplinary hearing and no counterclaims of libel were ever brought against National League officials.<sup>88</sup>

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<sup>78</sup> SMILES, *supra* note 69, at 96.

<sup>79</sup> Rogers, *supra* note 65. Jennings returned to Cornell in early 1906 to complete some final coursework. SMILES, *supra* note 69, at 107.

<sup>80</sup> Rogers, *supra* note 65; Jack Smiles, *When Hughie Jennings Ruled Scranton*, GOOD TIMES FOR SENIORS, July/August 2019, at 7, 7.

<sup>81</sup> Rogers, *supra* note 65; Smiles, *supra* note 80.

<sup>82</sup> *Hugh Jennings's Sponsor; Jack Chapman's Opinion of the Irish Boy he Brought Into Baseball*, N.Y. TIMES (Sept. 1, 1907),

[https://timesmachine.nytimes.com/timesmachine/1907/09/01/104707512.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1907/09/01/104707512.pdf?pdf_redirect=true&ip=0) ("If he were not in baseball he would shine as a lawyer" (quoting manager Jack Chapman)).

<sup>83</sup> Rogers, *supra* note 65.

<sup>84</sup> See SMILES, *supra* note 69, at 106-07 (Jennings took on his first case in January 1906 in Baltimore, "unsuccessfully defending a black man accused of stealing a chicken").

<sup>85</sup> *Hugh Jennings Dies After Long Illness; Famous Baseball Veteran, Ailing for Three Years, Succumbs in Scranton*, N.Y. TIMES (Feb. 1, 1928), [https://timesmachine.nytimes.com/timesmachine/1928/02/01/91467818.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1928/02/01/91467818.pdf?pdf_redirect=true&ip=0) (noting that, shortly before his death, Jennings defended himself in a lawsuit involving a car accident).

<sup>86</sup> Rogers, *supra* note 65; see also SMILES, *supra* note 69, at 164 (defending Polish immigrants accused, with others, of murdering a suitor of a woman coveted by one of the defendants).

<sup>87</sup> See SMILES, *supra* note 69, at 164 ("The attorney for the defense holds the stand I have taken in this particular case indicates disloyalty to the great profession through which I have made my livelihood. Far be it from me"). Plaintiff's lawyer Jennings argued that the object of the game was to hit fair balls; the court awarded \$500 in damages for loss of the rooster, plus attorney fees. *Id.*

<sup>88</sup> *The National League Versus Horace Fogel*, BASEBALL HIST. DAILY (July 8, 2013), <https://baseballhistorydaily.com/2013/07/08/the-national-league-versus-horace-fogel/> (citing Associated Press (Oct. 17, 1912)).

Even as a manager, Jennings returned to his law practice during the offseason and continued to practice after his retirement in 1925 until shortly before his death in 1928.<sup>89</sup> In recent years, the University of Maryland School of Law has occasionally hosted the Hughie Jennings Memorial Baseball Lecture in honor of the former Oriole.<sup>90</sup>

### C. James O'Rourke (1945)

Jim O'Rourke was not only one of the game's early stars - he also served as a manager, umpire, minor league executive, and union organizer during his long career.<sup>91</sup> Known as "Orator Jim" for his delight in rhetoric,<sup>92</sup> O'Rourke made the first hit in the National League's history in 1876 and appeared in a final game in 1903 at age 54.<sup>93</sup> His 1879 decision to switch teams after his owner refused to pay for his uniform led to the creation of the reserve clause.<sup>94</sup>

Like other player-lawyers of the time, O'Rourke completed his legal studies in the offseason.<sup>95</sup> After the 1885 season, O'Rourke enrolled at Yale Law School, where he also served as the school's baseball coach.<sup>96</sup> He was dedicated to his studies, described as well-spoken and an "earnest student . . . [who] pays

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<sup>89</sup> Sigman, *supra* note 42. Jennings' obituary was published on the front page of the New York Times alongside Charles Lindbergh's first person account of a flight over the Caribbean Sea and the story of an Iowa dog named Freckles who warned an oncoming train that his owner had collapsed on the tracks. *Hugh Jennings Dies After Long Illness*; . . ., *supra* note 85; *Lindbergh Tells of High Swift Hop Over Caribbean in Rain Squalls; Lost Time in Fog on Venezuelan Coast and Put on Speed, Flier Says in Own Story -- Nearly Always in Sight of one of the Antilles*, N.Y. TIMES (Feb. 1, 1928), <https://www.nytimes.com/1928/02/01/archives/lindbergh-tells-of-high-swift-hop-over-caribbean-in-rain-squalls.html>; *Dog on Railroad Track 'Flags' Iowa Train and Saves Master Overcome by Heart Attack*, N.Y. TIMES (Feb. 1, 1928), <https://www.nytimes.com/1928/02/01/archives/dog-on-railroad-track-flags-iowa-train-and-saves-master-overcome-by.html>; see *Site Map*, N.Y. TIMES (Feb. 1, 1928), <https://www.nytimes.com/sitemap/1928/02/01/>.

<sup>90</sup> See, e.g., Paul Finkelman, *Baseball and the Rule of Law Revisited*, 25 T. JEFFERSON L. REV. 17, 17 n.a1 (2002).

<sup>91</sup> Bill Lamb, *Jim O'Rourke*, SOC'Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/jim-orourke-2> (last visited Jan. 8, 2024).

<sup>92</sup> See, e.g., MIKE ROER, ORATOR O'ROURKE: THE LIFE OF A BASEBALL RADICAL 1, 142 (2005) ("[W]hen asked why the Giants lost a game to the White Sox: 'Unfortunate combination of heterogeneous circumstances compelled us to succumb to the simultaneous and united endeavors of our opponents.'" (citing *In the Wake of the News*, CHI. DAILY TRIB., Aug. 23, 1923, at 15)).

<sup>93</sup> Lamb, *supra* note 91.

<sup>94</sup> Ed Edmonds, *At the Brink of Free Agency: Creating the Foundation for the Messersmith- McNally Decision 1968-1975*, 34 S. ILL. U. L. J. 565, 568 (2010) (discussing O'Rourke's role in the development of the reserve clause).

<sup>95</sup> Lamb, *supra* note 91.

<sup>96</sup> ROER, *supra* note 92, at 124-25. The Giants paid for his tuition. See Lamb, *supra* note 91.

the closest attention to the words of wisdom that come from his instructors' lips."<sup>97</sup>

In March 1887, O'Rourke used his nascent legal skills in contract negotiations with the Giants, notifying the team through newspaper articles that he could not play during the upcoming season due to his upcoming graduation.<sup>98</sup> Because the team had not pursued his signing earlier, O'Rourke would have to miss much of the season: "[I]n consequence of not hearing from you earlier I have neglected to ask or to solicit any special arrangements with the Yale faculty in reference to my examination[s]."<sup>99</sup> The team quickly made "satisfactory arrangements" to allow O'Rourke time off for his exams, and he played a full season.<sup>100</sup>

O'Rourke completed his exams and graduated, although he was unable to join the Connecticut Bar until the season ended.<sup>101</sup> He then opened a law office in his hometown of Bridgeport, Connecticut.<sup>102</sup> Many thought this would be the end of his baseball career, but O'Rourke quickly put those rumors to rest.<sup>103</sup>

For some years to come the law business will be a side issue with me. . . Fully six months in the year I shall have time for briefs, musty law books and all that. This will sort of counter-balance my athletic life . . . A ball player wears out eventually and at that time I shall drop out of the National game . . .<sup>104</sup>

O'Rourke's Connecticut clients were friends, neighbors, social acquaintances, and other players, and most cases were routine.<sup>105</sup> He had a

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<sup>97</sup> ROER, *supra* note 92, at 126 (quoting NEW HAVEN UNION, as reprinted in BRIDGEPORT HERALD (Dec. 26, 1885) (describing O'Rourke as a "very pleasant talker, [who] uses excellent English, and can chat for hours entertainingly on base ball topics").

<sup>98</sup> *Id.* at 130 (quoting NEW HAVEN REG. (Mar. 28, 1887) ("O'Rourke says he is not particular about playing at all this season, as he will graduate from the Yale Law School in June, and really needs the time to prepare himself for the event").

<sup>99</sup> *Id.* at 130-31 (quoting Letter from Jim O'Rourke to New York Giants owner John Day (Apr. 1, 1887), reprinted in NEW HAVEN REG. (Apr. 2, 1887)).

<sup>100</sup> *Id.* at 131.

<sup>101</sup> *O'Rourke Becomes a Lawyer*, N.Y. TIMES (Nov. 6, 1887), [https://timesmachine.nytimes.com/timesmachine/1887/11/06/103150535.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1887/11/06/103150535.pdf?pdf_redirect=true&ip=0) ("[H]is engagements with the New-York nine kept him away from New-Haven at the time the other members of his class were sworn in by the Superior Court. When he ceases to play ball he expects to practice law in Bridgeport, Conn.")

<sup>102</sup> ROER, *supra* note 92, at 132 (citing BRIDGEPORT DIRECTORY, CITY OF BRIDGEPORT (1888)).

<sup>103</sup> *Id.*

<sup>104</sup> *Id.* (quoting Interview with Jim O'Rourke, in SPORTING LIFE (Dec. 21, 1887)).

<sup>105</sup> *Id.* at 200.

significant estate planning practice,<sup>106</sup> including unsuccessfully representing a decedent's estate in a wrongful death claim against a railroad in 1889.<sup>107</sup> A "kind-hearted" attorney, O'Rourke was reluctant to pursue payment from clients<sup>108</sup> and was well-regarded by his peers.<sup>109</sup> O'Rourke valued the counseling role of a lawyer<sup>110</sup> and apparently preferred non-litigation solutions for his clients.<sup>111</sup> And Orator Jim's love for words no doubt suited the legal profession.<sup>112</sup>

After his major league career ended in 1893, he returned home to practice law and manage his real estate interests.<sup>113</sup> In addition to his practice, O'Rourke ran for political office,<sup>114</sup> served in municipal government, was involved in civic affairs -- and was, at various times, a player-manager, umpire, team executive, and minor league operator.<sup>115</sup> The legal profession particularly benefited O'Rourke in his role on the National Board of Arbitration for the National Association of Professional Base Ball Leagues, where he practiced administrative law, adjudicating disputes between players, teams, and owners.<sup>116</sup>

Despite these side roles, he was at work at his law office every morning.<sup>117</sup> O'Rourke died from pneumonia in 1919, days after walking to his office in a January blizzard to consult a client in an eviction case.<sup>118</sup>

Almost a century after O'Rourke's death, legal efforts ensued to preserve

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<sup>106</sup> C.J. Hughes, *Famous and Forgotten: A Baseball Legend From Bridgeport*, N.Y. TIMES (Aug. 8, 2004), <https://www.nytimes.com/2004/08/08/nyregion/famous-and-forgotten-a-baseball-legend-from-bridgeport.html> (noting that O'Rourke "practiced law in downtown Bridgeport, managing trusts and estates when not catching for the local team").

<sup>107</sup> *Rowen v. New York, N. H. & H. R. Co.*, 21 A. 1073, 1073-75 (Conn. 1890) (railroad was assessed only nominal damages in woman's death; decedent was contributorily negligent).

<sup>108</sup> Interview by Lee Allen with Raymond W. Hanke, O'Rourke's daughter (Jan. 20, 1968) (on file with author) (describing her father as an attorney who "never asked [a client] for a fee" because he was "[t]oo kind-hearted").

<sup>109</sup> See Bernard Crowley, *B, V Rating*, 310 *Lifetime Avg.*, 36 YALE L. REP. 2, 2-3 (1990). O'Rourke's B, V rating was given to him by *Martindale's American Law Directory*". *Id.*

<sup>110</sup> See MODEL RULES OF PRO. CONDUCT r. 2.1 (AM. BAR ASS'N 1983).

<sup>111</sup> ROER, *supra* note 92, at 235.

<sup>112</sup> *Id.* at 141-43.

<sup>113</sup> Lamb, *supra* note 91; ROER, *supra* note 92, at 200.

<sup>114</sup> ROER, *supra* note 92, at 201-02 (defeated in race for New York state legislature in 1894).

<sup>115</sup> Lamb, *supra* note 91.

<sup>116</sup> ROER, *supra* note 92, at 237 (citing N.Y. TIMES (Jan. 8, 1907), at 7) (describing appeal brought by Hall of Famer John Montgomery Ward on behalf of Pennsylvania franchise disputing league championship).

<sup>117</sup> Crowley, *supra* note 109, at 3.

<sup>118</sup> ROER, *supra* note 92, at 272; see also Interview by Lee Allen with Raymond W. Hanke, *supra* note 108 (describing how O'Rourke promised to meet a client and walked to the appointment after the trolley did not arrive).

his historic Bridgeport home, which stood by itself next to Interstate 95 after the rest of the neighborhood was razed for an urban development project.<sup>119</sup> Political will to preserve the house was lacking, however, and it was finally demolished in 2009.<sup>120</sup>

#### *D. Miller Huggins (1964)*

Miller Huggins, a 1964 Hall of Fame inductee, is best-known for being the manager of the 1927 “Murderers’ Row” New York Yankees.<sup>121</sup> The diminutive Huggins (at 5’1”, one of the shortest major leaguers in history) played thirteen years as a second baseman and managed Babe Ruth, Lou Gehrig, and the Yankees to six pennants and three World Series titles before his sudden death in 1929 at the age of fifty-one.<sup>122</sup>

Born in 1878, the Cincinnati native apparently pursued the law as a concession to his father, who found baseball frivolous and especially disapproved of Huggins’ playing on Sundays.<sup>123</sup> After many arguments, the father and son finally reached an agreement: “I got a compromise by which I could play ball at times and study law at others[,]” Huggins recalled.<sup>124</sup>

As a result, Huggins entered the University of Cincinnati Law School in 1899.<sup>125</sup> During his law school years, he continued to play baseball during the summers for semi-pro teams in Mansfield, Ohio, upstate New York, and St. Paul, Minnesota.<sup>126</sup> Even during the offseason, law school apparently was not Huggins’s primary focus.<sup>127</sup> Huggins captained the school’s baseball team and at one point was in such danger of being expelled that he had to convince the school’s leadership that he be allowed to finish his education.<sup>128</sup>

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<sup>119</sup> Bob Tedeschi, *Touching All The Bases for a Legend*, N.Y. TIMES (Feb. 20, 2009), <https://www.nytimes.com/2009/02/22/nyregion/connecticut/22colct.html>; Brian Lockhart, *City: Baseball Legend’s Statue in Safe Storage*, CONN. POST, <https://www.ctpost.com/local/article/City-Baseball-legend-s-statue-in-safe-storage-13535852.php> (Jan. 15, 2019, 5:18 PM).

<sup>120</sup> Tedeschi, *supra* note 119; Lockhart, *supra* note 119.

<sup>121</sup> *Miller Huggins*, NAT’L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/huggins-miller> (last visited Jan. 8, 2024).

<sup>122</sup> Steve Steinberg, *Miller Huggins*, SOC’Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/7b65e9fa> (last visited Jan. 8, 2024); *Miller Huggins*, *supra* note 121.

<sup>123</sup> STEVE STEINBERG & LYLE SPATZ, *THE COLONEL AND HUG: THE PARTNERSHIP THAT TRANSFORMED THE NEW YORK YANKEES* 29-30 (2015). Huggins began his semipro career under an assumed name, in part to keep it a secret from his father. *Id.*

<sup>124</sup> *Id.* at 29 (quoting Miller Huggins, *Serial Story of his Baseball Career: Writer of Sports Given Credit as Discoverer*, S.F. CHRON. (Feb. 1, 1924)).

<sup>125</sup> *Id.* at 30.

<sup>126</sup> Steinberg, *supra* note 122.

<sup>127</sup> *Id.*

<sup>128</sup> STEINBERG & SPATZ, *supra* note 123, at 30.

In any case, Huggins persevered. He graduated from law school in 1902 and was admitted to the Ohio Bar on December 6, 1902.<sup>129</sup> Following graduation, he spent the winter of 1902-1903 clerking for Grier Orr, a district court judge in St. Paul, Minnesota - presumably having connected with the judge in some previous year while playing for the St. Paul Saints.<sup>130</sup>

Like many new attorneys, Huggins needed career advice, so he turned to his former professor and the law school's dean -- future President and Chief Justice William Howard Taft.<sup>131</sup> Taft encouraged him to choose one or the other: "You can become a pleader or a player—not both . . . Try baseball; you seem to like it better."<sup>132</sup>

Huggins took Taft's suggestion to heart.<sup>133</sup> A year later, he was playing second base for the Reds and by 1918, he was managing the Yankees.<sup>134</sup> Huggins never returned to the practice of law; however, he likely found his legal training useful as he became involved in real estate ventures near his offseason home in St. Petersburg, Florida.<sup>135</sup>

#### E. *John Montgomery Ward (1964)*

Huggins was not the only lawyer inducted in 1964 - he was joined in the Hall of Fame class by John Montgomery Ward.<sup>136</sup> As a player, Ward was one of the top pitchers in the game by age eighteen - an "early master[] of the curveball," who developed innovations such as a raised pitcher's mound, pitch outs, and intentional walks.<sup>137</sup> He fought for players rights, helped establish the

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<sup>129</sup> *Id.*; *The Supreme Court of Ohio Attorney Directory*, SUP. CT. OF OHIO, <https://www.supremecourt.ohio.gov/AttorneySearch/#/61429/attyinfo> (last visited Jan. 8, 2024).

<sup>130</sup> STEINBERG & SPATZ, *supra* note 123, at 30.

<sup>131</sup> *Id.* Taft himself was a well-known baseball fan and was the first president to throw out the ceremonial opening day first pitch. His contributions to the origins of the 7th inning stretch are less certain. *See generally* CURT SMITH, *THE PRESIDENTS AND THE PASTIME: THE HISTORY OF BASEBALL AND THE WHITE HOUSE* 20-40, 21 (2018) ("[Taft] loved baseball to a degree that few predecessors or successors equaled.").

<sup>132</sup> STEINBERG & SPATZ, *supra* note 123, at 30.

<sup>133</sup> *Id.*

<sup>134</sup> *Miller Huggins*, *supra* note 121.

<sup>135</sup> *Miller Huggins Dies; Many Pay Tribute; Manager of Yankees' Baseball Team for 12 Seasons is a Victim of Blood Poisoning*, N.Y. TIMES (Sept. 26, 1929), <https://timesmachine.nytimes.com/timesmachine/1929/09/26/132737292.pdf>.

<sup>136</sup> *John Ward*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/ward-john> (last visited Jan. 8, 2024).

<sup>137</sup> Lee Lowenfish, *The Later Years of John M. Ward*, NAT'L PASTIME, Fall 1982, at 67, 67.

first players union in 1885<sup>138</sup> and was the primary organizer behind the short-lived Players League.<sup>139</sup>

His legal journey began in 1883, when Ward began taking classes at night and in the offseason at Columbia Law School in New York.<sup>140</sup> He obtained a Bachelor of Laws in 1885 and a Bachelor of Philosophy in 1886.<sup>141</sup>

Ward put his legal training to immediate use on behalf of players' rights.<sup>142</sup> In 1885, Ward and eight of his New York Giants teammates secretly formed baseball's first players union - known as the Brotherhood of Professional Base Ball Players.<sup>143</sup> In 1887, Ward publicly challenged baseball's "reserve clause" by authoring a magazine article entitled "Is the Base-Ball Player a Chattel?"<sup>144</sup> And in 1889, Ward was the key organizer in the founding of a new baseball league - the "Players' League" - which significantly operated without a reserve clause.<sup>145</sup>

Ward's leadership in challenging the reserve clause meant that he was one of the first players to be sued for a breach of contract.<sup>146</sup> In what has been called "the most important early baseball case[,]"<sup>147</sup> the Giants sued Ward to prevent him from playing for any other team for the 1890 season.<sup>148</sup> Ward's contract

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<sup>138</sup> John Ward, *supra* note 136; see also Roy Corio, *Question Box: Lawyers and Managers*, N.Y. TIMES (Dec. 11, 1989), <https://timesmachine.nytimes.com/timesmachine/1989/12/11/827289.html?pageNumber=47> (calling Ward "the Marvin Miller of his time"). For more about Miller, see Section IV, *infra*.

<sup>139</sup> John Ward, *supra* note 136; Bill Lamb, *John Montgomery Ward*, SOC'Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/john-montgomery-ward/> (last visited Jan. 8, 2024); see also John Montgomery Ward: *The Lawyer Who Took on Baseball*, LEGAL HIST. BLOG (Feb. 19, 2013), <http://legalhistoryblog.blogspot.com/2013/02/john-montgomery-ward-lawyer-who-took-on.html>.

<sup>140</sup> Lamb, *supra* note 139.

<sup>141</sup> Emily Morris, *Columbia to Cooperstown*, LOW DOWN (Apr. 19, 2016), [https://thelowdown.alumni.columbia.edu/baseball\\_hall\\_of\\_fame](https://thelowdown.alumni.columbia.edu/baseball_hall_of_fame). In 1886, Ward spoke in favor of Columbia's plan to restart its baseball team. See *Columbia Baseball Men*, N.Y. TIMES (Jan. 23, 1886), [https://timesmachine.nytimes.com/timesmachine/1886/01/23/106179255.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1886/01/23/106179255.pdf?pdf_redirect=true&ip=0) (Ward "was very enthusiastic on the subject, and in a few well chosen words said that if it was in his power he would have Columbia represented on the diamond field by a team of which they could feel proud").

<sup>142</sup> John Ward, *supra* note 136.

<sup>143</sup> Davies, *supra* note 70, at 325.

<sup>144</sup> John M. Ward, *Are Players Chattels?*, N.Y. TIMES (July 17, 1887), [https://timesmachine.nytimes.com/timesmachine/1887/07/17/100922893.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1887/07/17/100922893.pdf?pdf_redirect=true&ip=0). For the full text of Ward's article, see "Is the Base-Ball Player a Chattel?", LIPPINCOTT'S MAG., July-Dec. 1887, at 310 ("Instead of an institution for good, [the reserve clause] has become one for evil; instead of a measure of protection, it has been used as a handle for the manipulation of a traffic in players, a sort of speculation in live stock, by which they are bought, sold, and transferred like so many sheep").

<sup>145</sup> Davies, *supra* note 70, at 326.

<sup>146</sup> Robert M. Jarvis & Phyllis Coleman, *Early Baseball Law*, 45 AM. J. LEGAL HIST. 117, 126 (2001) (citing ROGER I. ABRAMS, LEGAL BASES: BASEBALL AND THE LAW 19 (1998)).

<sup>147</sup> *Id.* at 125 (citing ABRAMS, *supra* note 146, 9).

<sup>148</sup> *Metro. Exhibition Co. v. Ward*, 24 Abb. N. Cas. 393, 407 (N.Y. Sup. Ct. 1890).



allowed the team “to reserve the defendant for the season of 1890” for a minimum salary of \$3,000.<sup>149</sup> The court found that the contract’s terms were not definitive enough to entitle the Giants to a preliminary injunction.<sup>150</sup> Ward played in the new Players League in 1890 (before the league dissolved), joined Brooklyn in 1891 and 1892, and was back with the Giants by 1893.<sup>151</sup> Despite this victory, he did not, however, lead a challenge to permanently kill the reserve clause;<sup>152</sup> that would not happen until 1975.<sup>153</sup>

Ward retired after the 1894 season and began practicing law full-time in Brooklyn.<sup>154</sup> Handling mostly corporate cases, Ward took on personal injury cases,<sup>155</sup> contract disputes,<sup>156</sup> probate work,<sup>157</sup> suits involving damages caused by electric railway companies,<sup>158</sup> election law,<sup>159</sup> liquor licenses,<sup>160</sup> and he was even a plaintiff in an action challenging property tax assessments.<sup>161</sup>

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<sup>149</sup> *Id.* at 407.

<sup>150</sup> Jarvis & Coleman, *supra* note 146, at 125-26; *see also* James R. Devine, *Curt Flood and a Triumph of the Show Me Spirit*, 77 MO. L. REV. 9, 24-26 (2012) (discussing the case’s impact on the Supreme Court’s ruling in *Flood v. Kuhn*, 407 U.S. 258 (1972)); *See* DI SALVATORE, *supra* note 70, at 295-97 (summarizing the legal arguments).

<sup>151</sup> Lamb, *supra* note 139.

<sup>152</sup> DI SALVATORE, *supra* note 70, at 297-99 (speculating that Ward did not have the “strength or the will for further fight” against the reserve clause).

<sup>153</sup> *See* Kansas City Royals Baseball Corp. v. Major League Baseball Players Ass’n, 409 F. Supp. 233, 235 (W.D. Mo. 1976), *aff’d*, 532 F.2d 615, 261 (8th Cir. 1976).

<sup>154</sup> Lamb, *supra* note 139.

<sup>155</sup> *See, e.g.*, *Beyer v. Transit Dev. Co.*, 139 A.D. 724, 725, 124 N.Y.S. 463, 464 (App. Div. 1910) (employee injured by boiler explosion); *Cleary v. Brooklyn Factory & Power Co.*, 79 A.D. 35, 36, 79 N.Y.S. 1041, 1042 (App. Div. 1903) (delivery man injured by unexpected movement of a freight elevator); *Hubener v. Heide*, 62 A.D. 368, 368, 70 N.Y.S. 1115, 1115 (App. Div. 1901) (employee at candy making company injured in elevator accident).

<sup>156</sup> *Hackett v. Campbell*, 10 A.D. 523, 524, 42 N.Y.S. 47, 48 (App. Div. 1896), *aff’d*, 159 N.Y. 537, 53 N.E. 1125 (1899) (litigation between contractor and subcontractor related to construction of school in Yonkers, N.Y.).

<sup>157</sup> *See e.g., In re Wiemann’s Estate*, 119 Misc. 239, 239, 195 N.Y.S. 957, 958 (Sur. 1922) (guardian case); *In re Wilber’s Estate*, 27 Misc. 53, 53, 57 N.Y.S. 942, 942 (Sur. 1899) (probate case); *Cent. Tr. Co. of N.Y. v. Dewey*, 223 N.Y. 726, 120 N.E. 859 (1918) (construction of will).

<sup>158</sup> *Serra v. Brooklyn Heights R. Co.*, 95 A.D. 159, 88 N.Y.S. 500 (App. Div. 1904) (plaintiff injured by train); *Perry v. Metro. St. Ry. Co.*, 68 A.D. 351, 352, 74 N.Y.S. 1, 2 (App. Div. 1902) (train collided with coal cart, injuring cart driver); *N.Y. Condensed-Milk Co. v. Nassau Elec. R. Co.*, 29 Misc. 127, 128, 60 N.Y.S. 234, 234 (App. Term 1899) (train collided with milk wagon left on tracks).

<sup>159</sup> *People ex rel. Eldred v. Palmer*, 21 A.D. 101, 101, 47 N.Y.S. 403, 404 (App. Div.), *aff’d*, 154 N.Y. 133, 47 N.E. 1084 (1897) (dates for elections of municipal officers).

<sup>160</sup> *Ging v. Sherry*, 32 A.D. 354, 355, 52 N.Y.S. 1003, 1003 (App. Div. 1898); *In re Bridge*, 25 Misc. 213, 213, 55 N.Y.S. 54, 55 (Sup. Ct. 1898), *aff’d*, 36 A.D. 533, 56 N.Y.S. 1105 (App. Div. 1899).

<sup>161</sup> *Ward v. City of Brooklyn*, 32 A.D. 430, 432, 53 N.Y.S. 41, 42 (App. Div. 1898), *aff’d*, 164 N.Y. 591, 58 N.E. 1093 (1900); *see also Millions in Taxes Involved*, N.Y. TIMES (Mar. 8, 1898),

He also remained involved in litigation related to baseball, which helped raise his profile and attract clients.<sup>162</sup> In one of Ward's early cases, for example, he represented future Hall of Famer Amos Rusie in a contract dispute, filing suit on Rusie's behalf against the New York Giants for a release from the contract and \$5,000 in damages.<sup>163</sup> The Giants agreed to settle, backed by other owners who feared that Rusie's suit would bring an end to the reserve clause.<sup>164</sup> Ward represented both players and management in many high-profile disputes.<sup>165</sup> In 1903, Ward was retained by future Hall of Famer George Davis<sup>166</sup> whose contractual rights were claimed by both the Giants and the White Sox; the dispute threatened to destroy the National Agreement between the National and American Leagues.<sup>167</sup> Ward later successfully sued American League President (and Hall of Famer) Ban Johnson for libel after Johnson criticized Ward for his conduct in the Davis case.<sup>168</sup>

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[https://timesmachine.nytimes.com/timesmachine/1898/03/08/102489529.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1898/03/08/102489529.pdf?pdf_redirect=true&ip=0) (last visited Jan. 8, 2024).

<sup>162</sup> Lee Lowenfisch, *The Later Years of John M. Ward*, THE NATIONAL PASTIME: A REVIEW OF BASEBALL HISTORY (Fall 1982), [http://research.sabr.org/journals/files/SABR-National\\_Pastime-02.pdf](http://research.sabr.org/journals/files/SABR-National_Pastime-02.pdf), at 68.

<sup>163</sup> Charles F. Faber, *Amos Rusie*, SOC'Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/amos-rusie/> (last visited Jan. 8, 2024).

<sup>164</sup> *Id.*

<sup>165</sup> See DI SALVATORE, *supra* note 70, at 367-69 (representation of Giants 2B Fred Pfeffer in eleven-year litigation against Giants owner in which Pfeffer was awarded back salary of \$800 plus interest; representation of Brooklyn League in contract dispute against player-manager). See also, e.g., *Griffin v. Brooklyn Ball Club*, 73 N.Y.S. 864 (App. Div. 1902), *aff'd*, 66 N.E. 1109 (N.Y. 1903); *Russell v. National Exhibition Co.*, 69 N.Y.S. 732 (App. Div. 1901); *National Exhibition Co. v. Crane*, 66 N.Y.S. 361 (App. Div. 1900), *aff'd*, 60 N.E. 768 (N.Y. 1901); *Boston Baseball Ass'n v. Brooklyn Baseball Club*, 75 N.Y.S. 1076 (N.Y. Sup. Ct. 1902).

<sup>166</sup> The star shortstop was "was likely the best ballplayer you'd never heard of" when he was finally inducted into the Hall of Fame in 1998. See *George Davis*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/davis-george> (last visited Jan. 8, 2024).

<sup>167</sup> DI SALVATORE, *supra* note 70, at 373-74. A federal injunction was eventually issued against Davis, preventing him from playing for any team other than the White Sox. See *George Davis*, *supra* note 166.

<sup>168</sup> At the time of the Davis case, Johnson had threatened to file an ethics complaint seeking Ward's disbarment for "unprofessional advice." The arguments centered on whether or not Johnson had spoken truthfully about Ward's representation of Davis and whether Ward had violated professional conduct rules. See DI SALVATORE, *supra* note 70, at 374-76; WILLIAM F. LAMB, THE WARD V. JOHNSON LIBEL CASE: THE LAST BATTLE OF THE GREAT BASEBALL WAR, *BASE BALL: A JOURNAL OF THE EARLY GAME* 2 (Fall 2008). See also MODEL RULES OF PRO. CONDUCT r. 2.1, *supra* note 110 ("In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.")

In his later years, Ward spent less time practicing law in Brooklyn and more time on Long Island managing his farm and other business interests, traveling, and becoming a world-class golfer.<sup>169</sup> He died in 1925.<sup>170</sup>

#### F. BRANCH RICKEY (1967)

Although he did have a short-lived playing and managing career, Wesley Branch Rickey was primarily inducted into the Hall of Fame for his success as an executive with the Browns, Cardinals, Dodgers, and Pirates.<sup>171</sup> His contributions to baseball include the development of the modern farm system, spring training complexes, and of course, signing Jackie Robinson to the Dodgers to finally integrate the game.<sup>172</sup>

Rickey first considered law school as a way to improve his standing in the eyes of his future father in law, who believed a career in baseball was undignified.<sup>173</sup> Rickey began studying the law on his own in 1905 while coaching at Alleghany College in Pennsylvania.<sup>174</sup> Two years later while coaching at his alma mater, Ohio Wesleyan University, he used his coaching income to pay for night law school classes at Ohio State University.<sup>175</sup>

In 1909, Rickey enrolled at the University of Michigan Law School.<sup>176</sup> Finding the law “easy to master”, Rickey maintained outstanding grades and took extra credits in an attempt to finish the three year program in two years.<sup>177</sup> He was allowed to coach the university’s baseball team, but only after agreeing to be called on every day in every law school class to prove that he was keeping

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<sup>169</sup> DI SALVATORE, *supra* note 70, at 385-94.

<sup>170</sup> *Id.* at 397.

<sup>171</sup> Andy McCue, *Branch Rickey*, SOC’Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/branch-rickey/> (last visited Jan. 8, 2024). Rickey (actually, his property) was involved in one prominent legal case while an executive with the Cardinals. See *Kourik v. English*, 340 Mo. 367, 372, 100 S.W.2d 901, 902 (1937) (insurance adjuster’s voluntary act to drive police officers to pick up criminals who stole Rickey’s car was not within the scope of adjuster’s employment).

<sup>172</sup> McCue, *supra* note 171.

<sup>173</sup> See MURRAY POLNER, *BRANCH RICKEY: A BIOGRAPHY* 36, 40-42 (rev. ed. 2007) (noting that Rickey’s future father in law “considered baseball below the dignity of a college graduate” and that, for Rickey, playing for the Reds was “only a way of accumulating enough money to marry and go on to law school”).

<sup>174</sup> *Id.* at 39-41.

<sup>175</sup> LEE LOWENFISH, *BRANCH RICKEY: BASEBALL’S FEROCIOUS GENTLEMAN* 40-41 (2007).

<sup>176</sup> POLNER, *supra* note 173, at 55. For more details on Rickey’s studies, see Richard D. Friedman, *Branch Rickey, ‘11: Much More than Pioneering Baseball Leader*, LAW QUAD. NOTES 50, NO. 1 8-13 (2007), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1627&context=articles>.

<sup>177</sup> POLNER, *supra* note 173, at 56. Despite his success in school, Rickey believed he lacked purpose. See Friedman, *supra* note 176, at 11 (quoting Rickey’s 1910 letter to his parents (describing himself as “tired and sick of college” and promising to “do my best not to make God as ashamed of me as he has been these last few years”).

up with his studies.<sup>178</sup> Rickey indeed earned his J.D. in two years, graduating in 1911.<sup>179</sup>

Following graduation in 1911, Rickey passed the Idaho bar<sup>180</sup> and moved with two friends to Boise to found a law firm.<sup>181</sup> Business was slow.<sup>182</sup> Rickey was appointed a public defender for a single client - an outlaw charged with multiple crimes who spit at him when Rickey appeared to represent him.<sup>183</sup>

Short on business, the partners agreed that Rickey should return to Ann Arbor to coach the 1912 season.<sup>184</sup> Back in Ann Arbor, Rickey discovered future Hall of Famer George Sisler, then an undergraduate, and used his legal training to argue to the commissioner that a contract Sisler had signed with a scout was illegal.<sup>185</sup> Although Rickey planned to return to the law the following summer, “baseball began to supplant the law in his mind[.]” primarily because of his love for the game and the discovery that the law was not as profitable as he imagined.<sup>186</sup>

Rickey and his partners agreed to close the firm, and Rickey began his major league executive career with the St. Louis Browns.<sup>187</sup> Even then, he intended his stay with the Browns to be brief, but baseball still promised more financial stability for Rickey and his struggling young family.<sup>188</sup> He did not return to the practice of law.<sup>189</sup>

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<sup>178</sup> POLNER, *supra* note 173, at 57.

<sup>179</sup> *Id.* at 58.

<sup>180</sup> *Id.* at 59.

<sup>181</sup> LOWENFISH, *supra* note 175, at 53-54.

<sup>182</sup> *Id.* at 54.

<sup>183</sup> *Id.* (“I never knew a man could be guilty of so many crimes,” Rickey said). *See also* Gerald Holland, *Mr. Rickey and the Game*, *SPORTS ILLUSTRATED: VAULT* (Mar. 7, 1955), <https://vault.si.com/vault/1955/03/07/mr-rickey-and-the-game>

(“I tried to draw myself up a little and then I said, ‘Sir, my name is Branch Rickey. The court has appointed me your attorney and I would like to talk to you.’ He looked me up and down again and then spat at my feet. Then he delivered what turned out to be the final words of our association. He said, ‘Get the hell out of here!’”);

*but see* POLNER, *supra* note 173, at 58 (noting Rickey had a single client in a minor civil dispute).

<sup>184</sup> LOWENFISH, *supra* note 175, at 54.

<sup>185</sup> JIMMY BRESLIN, *BRANCH RICKEY: A PENGUIN LIFE* 43 (2001).

<sup>186</sup> POLNER, *supra* note 173, at 59.

<sup>187</sup> The firm disintegrated both over lack of business and over political disagreements related to the 1912 election – Rickey and another partner supported Theodore Roosevelt’s bid to return to the White House; the other supported eventual winner Woodrow Wilson. *See* POLNER, *supra* note 173, at 63.

<sup>188</sup> *See* Holland, *supra* note 183.

<sup>189</sup> *Id.* Rickey’s decision was not without regret. *Id.* (“I was a moral coward. I chose to stay with the game . . . A man trained for the law . . . devotes his entire life and all his energies to something so cosmically unimportant as a game”).

## G. LARRY MACPHAIL (1978)

The “Barnum of Baseball,”<sup>190</sup> Leland Stanford (“Larry”) MacPhail was a pioneering and innovative baseball executive of the Reds, Dodgers, and Yankees.<sup>191</sup> Between 1933 and 1947, he introduced night baseball, pension plans, batting helmets, airplane travel, and radio broadcasts to the major leagues, while presiding over World Series trips by both the Dodgers and Yankees.<sup>192</sup>

MacPhail’s legal training began in 1907 when he was seventeen.<sup>193</sup> After entering Beloit College the previous year, the Michigan native transferred to the University of Michigan Law School, where he first crossed paths with Branch Rickey;<sup>194</sup> the two future attorneys would cross paths frequently as baseball executives on their way to the Hall of Fame.<sup>195</sup> After a semester, MacPhail withdrew due to eye trouble, and transferred again to George Washington University School of Law, where he graduated in 1910 at age 20.<sup>196</sup>

In October 1910, he successfully passed the Illinois bar and began the practice of law with a corporate Chicago law firm, Davis and Rankin.<sup>197</sup> MacPhail’s “quick mind” and “gift for nonstop oratory” made him a natural trial

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<sup>190</sup> Joseph Durso, *Baseball's Larry MacPhail Dies; Night-Game Pioneer Led Yanks*, N.Y. TIMES 1 (Oct. 2, 1975), <https://www.nytimes.com/1975/10/02/archives/baseballs-larry-macphail-dies-nightgame-pioneer-led-yanks-larry.html>. A minor league team is recognized each year for its “outstanding and creative marketing and promotional efforts” with the Larry MacPhail Promotional Award. See *Minor League Baseball Award Winners*, MiLB, <https://www.milb.com/about/awards> (last visited Jan. 8, 2024). For more on MacPhail’s huge personality, see Gerald Holland, *Who in the World but Larry*, SPORTS ILLUSTRATED: VAULT (Aug. 17, 1959), <https://vault.si.com/vault/1959/08/17/who-in-the-world-but-larry> (“There is nobody like MacPhail. There is nobody who is even remotely like Leland Stanford (Larry) MacPhail”).

<sup>191</sup> *Larry MacPhail*, NAT’L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/macphail-larry> (last visited Jan. 8, 2024).

<sup>192</sup> *Id.* MacPhail’s spending is credited with launching the Yankees and Dodgers dynasties of the 1950s. Jay H. Topkis, *Monopoly in Professional Sports*, 58 YALE L. J. 691, 712 n.51 (1949) (“The Dodgers became a team, rather than a subject for humorous anecdote, when L. S. MacPhail loosened the purse-strings”). See also Durso, *supra* note 190.

<sup>193</sup> Ralph Berger, *Larry MacPhail*, SOC’Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/1b708d47> (last visited Jan. 8, 2024).

<sup>194</sup> PETER GOLENBOCK & PAUL DICKSON, BUMS: AN ORAL HISTORY OF THE BROOKLYN DODGERS 11 (2010).

<sup>195</sup> *Id.*

<sup>196</sup> Berger, *supra* note 193.

<sup>197</sup> DON WARFIELD, THE ROARING REDHEAD: LARRY MACPHAIL—BASEBALL’S GREAT INNOVATOR 6 (1987). See also *Lawyer Search*, ATT’Y REGISTRATION & DISCIPLINARY COMM’N OF THE SUP. CT. OF ILL., <https://www.iardc.org/> (search in search bar for “L. S. MacPhail”) (last visited Jan. 8, 2024).

lawyer.<sup>198</sup> His firm was involved in common carrier litigation,<sup>199</sup> and MacPhail defended Union Pacific Railroad against claims from midwestern shippers whose cargo was delayed and damaged due to the 1906 San Francisco earthquake.<sup>200</sup>

After MacPhail did not make partner at Davis and Rankin,<sup>201</sup> he became a full partner at another firm. Fowler, McDonnell, Rosenberg, & MacPhail<sup>202</sup> handled, among others, ordinary contract and real estate cases<sup>203</sup> and had offices in Chicago and Manistee, Michigan (near where MacPhail attended high school).<sup>204</sup> MacPhail eventually left his law practice to work directly for his clients - first for a tool firm whom he had advised in bankruptcy,<sup>205</sup> and then a Nashville department store.<sup>206</sup> MacPhail's legal training and perspective helped him turn around the businesses.<sup>207</sup>

After volunteering for World War I,<sup>208</sup> MacPhail moved to Columbus, Ohio, where he was involved in a variety of business, sporting,<sup>209</sup> and community

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<sup>198</sup> Gerald Holland, *Horses, Carrots, and Pimlico*, SPORTS ILLUSTRATED: VAULT (Aug. 24, 1959), <https://vault.si.com/vault/1959/08/24/horses-carrots-and-pimlico> ("He found the courtroom a most congenial arena for his talents, and with his flaming red hair, his quick mind, his lung power and gift for nonstop oratory, he had all the equipment usually associated with great trial lawyers").

<sup>199</sup> See *Bell v. Union P. R. Co.*, 177 Ill. App. 374, 375 (1913) (failure to deliver seventy-three head of cattle from Wyoming to Nebraska); see also *Deatwyler v. Or. R. & N. Co.* 176 Ill. App. 597 (1913) (failure to deliver 945 crates of fresh prunes from Washington to Chicago); see also *Ricks Sheep Co. v. Or. S. L. R. Co.*, 180 Ill. App. 220, 221 (1913) (firm defending railroad for failure to properly deliver 2,397 sheep from Idaho to Chicago).

<sup>200</sup> MacPhail reportedly lost his first 200 cases in the trial court. WARFIELD, *supra* note 197, at 6.

<sup>201</sup> *Id.*

<sup>202</sup> *Alumni Professional Directory*, MICH. ALUMNUS, Nov. 1911, at 4 (listing firm).

<sup>203</sup> See *Rosenberg v. Miller*, 181 Ill. App. 443, 444 (1913) (firm represents tailor suing customer who refused to pay for a \$55 suit which did not fit as promised); see also *Maremont v. Muller*, 166 Ill. App. 503, 504 (1911) (firm represents buyer seeking to enforce specific performance of real estate contract).

<sup>204</sup> See *Alumni Professional Directory*, *supra* note 202.

<sup>205</sup> GOLENBOCK & DICKSON, *supra* note 195, at 12.

<sup>206</sup> WARFIELD, *supra* note 197, at 7.

<sup>207</sup> *Id.*

<sup>208</sup> In his military experience, most memorably, MacPhail and several colleagues attempted to kidnap Germany's Kaiser Wilhelm near the end of World War I. MacPhail kept one of the Kaiser's ashtrays as a souvenir. *Id.* at 9-23; Dayn Perry, *Just Because: That Time Larry MacPhail Tried to Kidnap the Kaiser*, CBS SPORTS (Jan. 21, 2014, 12:11 PM), <https://www.cbssports.com/mlb/news/just-because-that-time-larry-macphail-tried-to-kidnap-the-kaiser/>.

<sup>209</sup> WARFIELD, *supra* note 197, at 24-25.

activities.<sup>210</sup> He did not practice law and was not admitted to the Ohio bar.<sup>211</sup> In 1931, he bought the minor league Columbus Senators,<sup>212</sup> quickly reselling the team to the St. Louis Cardinals organization (run by Rickey) but retaining operating control of the franchise as its president.<sup>213</sup> Two years later, however, MacPhail was forced out as president for violating an Ohio law requiring a corporate director to be a stockholder.<sup>214</sup> He would later become vice president and general manager of the Reds in 1934, executive vice president and general manager of the Dodgers in 1938, and president, co-owner, and general manager of the Yankees in 1945.<sup>215</sup>

Although he never again had a regular legal practice after leaving baseball in 1947, MacPhail “retained a great affection for the law.”<sup>216</sup> MacPhail - along with Rickey - testified before Congress in the 1951-1952 monopoly hearings.<sup>217</sup>

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<sup>210</sup> See, e.g. Durso, *supra* note 190 (“[MacPhail] took charge of the liquidation of several glass factories, ran an automobile agency, dealt in real estate, refereed football games in the Big Ten and put up \$100,000 to buy the Columbus Senators baseball team of the American Association.”); BOB HUNTER, A HISTORICAL GUIDEBOOK TO OLD COLUMBUS: FINDING THE PAST IN THE PRESENT IN OHIO’S CAPITAL CITY 311 (2012) (describing local civic activities); see also L. S. MacPhail, *Michigan Alumnus Discusses Football Situation at Ohio*, COLUMBUS EVENING DISPATCH, Nov. 12, 1924, at 36 (arguing that Ohio State University football coaches should not be blamed for losses because “[a]ny system of football coaching . . . is successful . . . only when the physical and mental ability . . . is equal to it.”); *MacPhail Home Nearly Stripped by Bold Thieves*, COLUMBUS EVENING DISPATCH, July 30, 1921, at 1 (detailing daytime robbery of Persian carpets, silverware, jewelry, and twenty-one quart bottles of whiskey stolen from MacPhail home during daytime robbery).

<sup>211</sup> *The Supreme Court of Ohio Attorney Directory*, SUP. CT. OF OHIO, <https://www.supremecourt.ohio.gov/AttorneySearch/#/61429/attyinfo> (search in search bar for “MacPhail”) (last visited Jan. 8, 2024); but see GOLENBOCK & DICKSON,

*supra* note 195, at 12 (stating that MacPhail opened a law office in Columbus).

<sup>212</sup> *MacPhail and Group of Local Men Buy Columbus Baseball Club from Cincinnati Reds*, COLUMBUS EVENING DISPATCH (Feb. 13, 1931), at 1 (“For a reported price of \$100,000 the Columbus Baseball club was purchased Friday by L. S. MacPhail of 227 Woodland [A]venue . . . MacPhail, well known in Columbus sports circles and a former Columbus auto dealer, has been active in the Central Ohio District Golf [A]ssociation, which he helped organize”).

<sup>213</sup> WARFIELD, *supra* note 197, at 26-27.

<sup>214</sup> See Ohio Gen. Code Title IX § 8661 (1910) (“All directors and executive officers shall be holders of stock of the company for which they are chosen”). See also WARFIELD, *supra* note 197, at 36-37 (describing how board of directors transferred MacPhail’s single share of stock in order to force the violation); Frank M. Colley, *MacPhail Out as President of Red Birds*, COLUMBUS EVENING DISPATCH, May 23, 1933, at 1.

<sup>215</sup> Berger, *supra* note 193.

<sup>216</sup> Holland, *supra* note 198

(“He has retained a great affection for the law and through the years has been in and out of court as counsel, plaintiff, defendant and prisoner at the bar—and on the winning side more often than not. He was prepared, just this summer, to appear as attorney for Mrs. MacPhail and fight a \$6 traffic violation charge, but the charge was not pressed”).

<sup>217</sup> See G. RICHARD MCKELVEY, *THE MACPHAILS: BASEBALL’S FIRST FAMILY OF THE FRONT OFFICE* 94 (2000); see generally Christian H. Brill & Howard W. Brill, *Take Me Out to the Hearing: Major League Baseball Players Before Congress*, 5 ALB. GOVT. L. REV. 90 (2012).

His Maryland horse farm was the subject of various lawsuits,<sup>218</sup> and MacPhail would often argue with friends and colleagues as if he were appearing before the court.<sup>219</sup>

#### H. *HAPPY CHANDLER (1982)*

Albert B. “Happy” Chandler served as the second commissioner of baseball from 1945 until 1951.<sup>220</sup> Chandler, who was elected twice as Governor of Kentucky and served in the U.S. Senate,<sup>221</sup> supported and presided over the integration of the game when Jackie Robinson joined the Dodgers.<sup>222</sup> Known as “the players’ commissioner,”<sup>223</sup> he is also remembered for establishing the first players’ pension fund.<sup>224</sup>

A native of rural Kentucky, Chandler was an accomplished multi-sport athlete at Transylvania University in 1921 when he made the “natural” choice<sup>225</sup>

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<sup>218</sup> *See, e.g.*, *Sagner v. Glenangus Farms, Inc.*, 198 A.2d 277, 278 (1964)

(action to determine construction and effect of a syndication agreement covering sale of ‘shares’ in a thoroughbred horse breeding operation); *Bd. of Cnty. Comm’rs of Harford Cnty. v. MacPhail*, 133 A.2d 96, 97-98 (1957) (suit to compel county to pave unimproved road). The court did not look kindly on the Yankee carpetbagger. (“Once upon a time the County Commissioners of Harford County could decide calmly, as an uncomplicated part of their routine duties, what road in the county they would improve, and when and how. That was before the appellee, Larry S. MacPhail, who had retired as president of the Yankees baseball club, came down from New York in 1941 . . .”). *Bd. of Cnty. Comm’rs of Harford Cnty.*, 133 A.2d at 96, 97-98.

<sup>219</sup> Holland, *supra* note 198 (“Drawing on his knowledge of the law, MacPhail has frequently confounded antagonists in simple disputes by putting his side of the argument on paper and then referring to the document as ‘this legal brief I hold in my hand’”). *See also* MCKELVEY, *supra* note 217, at 94 (describing MacPhail serving golf partner with mock complaint for non-payment of debt after losing a fifteen-dollar wager on the previous day’s round).

<sup>220</sup> *Happy Chandler: Executive, Class of 1982*, NAT’L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/chandler-happy> (last visited Jan. 8, 2024).

<sup>221</sup> Only one other Hall of Famer also served in Congress – fellow Kentuckian Jim Bunning. *See* David Cohen, *Jim Bunning, U.S. Senator and Baseball Luminary, Dies at 85*, POLITICO (May 27, 2017, 10:44 PM), <https://www.politico.com/story/2017/05/27/jim-bunning-dies-121196>; *Gov. Albert Benjamin Chandler*, NAT’L GOVERNORS ASS’N, <https://www.nga.org/governor/albert-benjamin-chandler/> (last visited Jan. 8, 2024).

<sup>222</sup> Although Chandler advocated for Robinson’s signing and ordered National Guard troops to enforce the integration of Kentucky schools, he also sought to join segregationist presidential candidate George Wallace’s ticket as vice president and used a racial slur at a university trustee meeting. *See* Robert Mcg. Thomas Jr., *A.B. (Happy) Chandler, 92, Dies; Led Baseball During Integration*, N.Y. TIMES (June 16, 1991), <https://www.nytimes.com/1991/06/16/obituaries/ab-happy-chandler-92-dies-led-baseball-during-integration.html>.

<sup>223</sup> Bill Marshall, *Baseball’s Most Colorful Commissioner: Happy Chandler*, SOC’Y FOR AM. BASEBALL RSCH. (1997), <https://sabr.org/journal/article/baseballs-most-colorful-commissioner-happy-chandler/>.

<sup>224</sup> *Id.*

<sup>225</sup> ALBERT BENJAMIN CHANDLER & VANCE TRIMBLE, *HEROES, PLAIN FOLKS, AND SKUNKS: THE LIFE AND TIMES OF HAPPY CHANDLER* 64-65 (1989) (“Did I make the right choice in going into law? I wouldn’t second-guess myself about it. It seems sort of natural”).



to forgo professional baseball<sup>226</sup> and enroll in Harvard Law School.<sup>227</sup> Although he enjoyed his classes (particularly contracts),<sup>228</sup> the climate, culture, and cost of Harvard made for a difficult transition.<sup>229</sup> After one year, he returned home, settled in the small town of Versailles (population 1100),<sup>230</sup> and enrolled at the University of Kentucky Law School.<sup>231</sup>

For the next two years, Chandler commuted to Lexington for morning law classes, then returned in the afternoon to coach high school football and teach history.<sup>232</sup> In May 1924, Chandler graduated, passed the Kentucky bar, and hung out his shingle in Versailles.<sup>233</sup>

Like many other new solo practitioners, Chandler's first years as an attorney posed challenges. Money was tight – he had to take out loans to keep his practice afloat<sup>234</sup>-- and he continued to coach and teach to make extra money.<sup>235</sup> He shared office space with more experienced attorneys,<sup>236</sup> receiving in the meantime a “post-graduate education in the art of practicing law.”<sup>237</sup> And, like many small-town lawyers of the time, Chandler practiced in almost every area

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<sup>226</sup> *Governor Albert Benjamin Chandler*, REG. OF KY HIST. SOC'Y, Vol. 34, No. 106, Jan. 1936, at 1-2 (noting that “[a]n early ambition to be a lawyer supplanted the idea of entering professional baseball”).

<sup>227</sup> CHANDLER & TRIMBLE, *supra* note 225, at 37.

<sup>228</sup> *Id.* at 38 (noting that Harvard contracts class “helped me immensely in my legal career”).

<sup>229</sup> *Id.* at 37-38 (describing how Chandler coached high school football to make ends meet).

<sup>230</sup> *Id.* at 45.

<sup>231</sup> *Id.* at 45-46.

<sup>232</sup> *Id.* at 46-47.

<sup>233</sup> CHANDLER & TRIMBLE, *supra* note 225, at 50.

<sup>234</sup> *Id.* at 59 (describing how Chandler was “just scraping by financially” and how “[e]very now and then [he] still had to borrow money”).

<sup>235</sup> *Id.* at 56 (describing how Chandler taught high school, coached high school football, scouted opponents for the Centre College football team, and coached the University of Kentucky women's basketball team).

<sup>236</sup> *Id.* at 50.

<sup>237</sup> *Id.* at 62.

of the law - real estate,<sup>238</sup> criminal defense,<sup>239</sup> probate,<sup>240</sup> education law,<sup>241</sup> bankruptcy,<sup>242</sup> personal injury.<sup>243</sup>

As his law practice grew over the next decade,<sup>244</sup> he turned to politics. Chandler was a natural politician,<sup>245</sup> and he applied what he had learned from law professors<sup>246</sup> and juries<sup>247</sup> to his campaigns. By 1935, at age 37, he was the youngest governor in the nation.<sup>248</sup> During his term, Kentucky leveraged federal New Deal funding to modernize the state's electricity grid, provide for teacher retirement, and reduce state debt.<sup>249</sup>

Chandler was appointed to a vacant United States Senate seat in 1939<sup>250</sup> and elected to a full term in 1942;<sup>251</sup> he served on the Military Affairs Committee and argued that Allied efforts in the Pacific should not take a back seat to those in Europe.<sup>252</sup> After the end of the war, Chandler resigned his seat in the Senate to serve as baseball commissioner following the death of

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<sup>238</sup> *Id.* at 51 (“My first client was a man who wanted a mortgage drawn. I charged him three dollars”).

<sup>239</sup> *Id.* at 51-52 (“My first appearance in court was to represent a couple of local men accused of taking an automobile from some Louisville folks . . . . Anyhow the prisoners told me they weren’t guilty . . . . I demanded a jury trial. Somehow, luckily, I got them off”). *See also id.* at 63-64 (“I was always on defense; I never prosecuted anybody in my life . . . . But I never took a case for somebody if I knew they were guilty”).

<sup>240</sup> *Hagedorn v. Scott*, 228 Ky. 582, 15 S.W.2d 479, 480 (1929) (representing decedent’s sister in will contest of decedent’s testamentary capacity). *See also id.* at 64 (describing unsuccessful challenge to a will Chandler had drafted for client).

<sup>241</sup> CHANDLER & TRIMBLE, *supra* note 225, at 52 (representation of Episcopal girls’ school).

<sup>242</sup> *Ky. Home Mut. Life Ins. Co. v. Hardin*, 277 Ky. 565, 126 S.W.2d 427, 428 (1938) (Chandler appointed as co-receiver of insolvent life insurance company). *See also Hone v. Ky. Home Mut. Life Ins. Co.*, 290 Ky. 261, 160 S.W.2d 657, 657 (1942); *Ky. Home Mut. Life Ins. Co. v. Miller*, 262 Ky. 330, 90 S.W.2d 59, 59 (1935); B.T.A.M. (P-H) P 33449 (B.T.A. 1933).

<sup>243</sup> CHANDLER & TRIMBLE, *supra* note 225, at 72-73 (representing client injured when automobile struck her horse and buggy and client suffering damages due to explosion).

<sup>244</sup> *Id.* at 52.

<sup>245</sup> Cabell Phillips, *What Makes 'Happy' Chandler Run*, N.Y. TIMES (Oct. 30, 1955), [https://timesmachine.nytimes.com/timesmachine/1955/10/30/92645356.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1955/10/30/92645356.pdf?pdf_redirect=true&ip=0) (“His political drive is marked by back-slapping, bombast, and barbecue . . .”).

<sup>246</sup> CHANDLER & TRIMBLE, *supra* note 225, at 78 (learning speaking techniques from law school professor who used pauses and voice inflections).

<sup>247</sup> *Id.* at 64-65 (“But I did have this power to have the jury listen to me. They listened to what I had to say, and believed it most of the time”).

<sup>248</sup> McKenzie Martin, *Albert B. Chandler*, KY. HIST. SOC’Y, <https://explorekychistory.ky.gov/items/show/395> (last visited Jan. 8, 2024).

<sup>249</sup> *Id.*

<sup>250</sup> Charles P. Roland, *Happy Chandler*, REG. OF KY. HIST. SOC., Vol. 85, No. 2, Spring 1987, at 149.

<sup>251</sup> *Id.*

<sup>252</sup> *Id.* at 150-51.

Commissioner Landis.<sup>253</sup> Larry MacPhail and other owners sought a new leader for the game with political connections, and Chandler had advocated strongly that baseball be played during wartime.<sup>254</sup>

As his tenure came to an end in 1951, he sought an extension, but by asserting his independence, he had lost the support of some owners.<sup>255</sup> Although the vote was nine to seven in favor of reappointment, Chandler fell short of the necessary supermajority.<sup>256</sup> After finishing his term, he returned to Kentucky, where he restarted his law practice and prepared for another run for political office.<sup>257</sup> He was elected governor for a second time in 1955.<sup>258</sup> His administration worked to improve highways and schools, enforce desegregation with the National Guard, and establish a medical school and hospital at the University of Kentucky which bears his name today.<sup>259</sup>

Although Chandler was never elected again, he was not finished with politics. He explored a presidential bid in 1960,<sup>260</sup> sought a vice-presidential nod in 1968,<sup>261</sup> and mounted campaigns for governor in 1963, 1967, and 1971.<sup>262</sup> He continued to be involved in various public issues until his death in 1991.<sup>263</sup>

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<sup>253</sup> Future commissioner Bowie Kuhn described the contrast between the first two: “Happy is as warm-spirited as Landis was crusty; as homespun as Landis was profane; as much a teetotaler as Landis was a drinker; as much a Democrat as Landis was a Republican; as voluble as Landis was terse; as kindly as Landis was pugnacious.” BOWIE KUHN, *HARDBALL: THE EDUCATION OF A BASEBALL COMMISSIONER* 25 (1988).

<sup>254</sup> See Thomas Jr., *supra* note 222.

<sup>255</sup> Terry Bohn, *Happy Chandler*, *SOC’Y FOR AM. BASEBALL RSCH.*, <https://sabr.org/bioproj/person/happy-chandler/> (last visited Jan. 8, 2024).

<sup>256</sup> *Id.*

<sup>257</sup> *Id.*

<sup>258</sup> Roland, *supra* note 250, at 154 (describing Chandler’s campaign slogan: “Be like your pappy and vote for Happy”).

<sup>259</sup> *Id.* at 159 (listing major accomplishments of second term).

<sup>260</sup> *Chandler’s Hat in Hand*, *N.Y. TIMES* (Aug. 31, 1957),

[https://timesmachine.nytimes.com/timesmachine/1957/08/31/84758089.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1957/08/31/84758089.pdf?pdf_redirect=true&ip=0) (“I intend to enter the Presidential Primary in 1960”).

<sup>261</sup> John Paul Hill, *A. B. “Happy” Chandler, George C. Wallace, and the Presidential Election of 1968*, *HISTORIAN*, Vol. 64, No. 3/4, Spring & Summer 2002, at 667-68.

<sup>262</sup> Roland, *supra* note 250, at 159.

<sup>263</sup> Thomas Jr., *supra* note 222; CHANDLER & TRIMBLE, *supra* note 225, at 129 (describing service on University of Kentucky board of trustees). See also KySportsVideo, *A.B. “Happy” Chandler’s Old Kentucky Home*, *YOUTUBE* (Mar. 31, 2010), <https://www.youtube.com/watch?v=fsQj46swDvI> (Chandler sings “My Old Kentucky Home” prior to a 1988 University of Kentucky basketball game).

### I. WALTER O'MALLEY (2008)

Walter O'Malley, who joined the Hall of Fame in 2008, was the president and owner of the Dodgers during the 1950s and 1960s.<sup>264</sup> Under his leadership, the team won four World Series and appeared in four more.<sup>265</sup> O'Malley angered New Yorkers and brought joy to Los Angelenos when he expanded the major leagues to the West Coast by moving the Dodgers from Brooklyn to Los Angeles after the 1957 season.<sup>266</sup>

Born in the Bronx and raised on Long Island, O'Malley enrolled in Columbia Law School in 1926 after graduating from the University of Pennsylvania.<sup>267</sup> O'Malley was apparently not motivated by a love for the law or the theories of legal realism being developed at Columbia - but the potential business and financial opportunities offered by a legal career.<sup>268</sup> After a year, he transferred to the more practice-oriented Fordham Law School,<sup>269</sup> where he attended night classes while working during the day as an engineer on various public works projects tunneling under Manhattan.<sup>270</sup>

Upon graduation and passage of the New York Bar, he opened his own business in Manhattan.<sup>271</sup> Although he first represented clients in other areas of the law,<sup>272</sup> O'Malley mostly practiced real estate, civil litigation, and contracts.<sup>273</sup> He developed political connections, built his practice, and came to represent many lenders involved in real estate development dealing with the thousands of bankruptcies and mortgage defaults caused by the Great

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<sup>264</sup> *Walter O'Malley*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/omalley-walter> (last visited Jan. 8, 2024).

<sup>265</sup> *Id.*

<sup>266</sup> *Id.* See also Howard W. Brill, *The Name of the Departed Team: Who Can Use It?*, 15 WHITTIER L. REV. 1003, 1008 (1994).

<sup>267</sup> *Biography*, WALTEROMALLEY.COM, <https://www.walteromalley.com/en/biography/short/Walter-OMalleys-Legacy> (last visited Jan. 8, 2024).

<sup>268</sup> MICHAEL D'ANTONIO, *FOREVER BLUE: THE TRUE STORY OF WALTER O'MALLEY, BASEBALL'S MOST CONTROVERSIAL OWNER, AND THE DODGERS OF BROOKLYN AND LOS ANGELES* 23 (2009).

<sup>269</sup> *Id.* at 24.

<sup>270</sup> *Id.* at 25.

<sup>271</sup> *Id.*

<sup>272</sup> *Id.* at 27, 33 (early clients included estate planning for an Irish priest who found a familiar Irish name in the phone book, client accused of rape, and former assemblyman charged with libel). See also *In re Shupack's Est.*, 158 Misc. 873, 875, 287 N.Y.S. 184, 188 (Sur. 1936) (representing incompetent adult child in will contest); *Frank v. McMeekan*, 56 F. Supp. 369, 370 (E.D.N.Y. 1944) (defending building owner against Fair Labor Standards Acts claims brought by maintenance employees).

<sup>273</sup> D'ANTONIO, *supra* note 268, at 27.

Depression.<sup>274</sup> His first interest in baseball was strictly financial. He wanted seats for his clients, and the box seats available at Ebbets Field were better than those at Yankee Stadium.<sup>275</sup>

One of his clients was the Brooklyn Trust Company, who, in 1939, hired O'Malley to represent it in its dealings with the Dodgers, who owed the company hundreds of thousands of dollars.<sup>276</sup> As O'Malley managed his client's business and legal dealings with the franchise, he gradually become more and more connected with the team.

In 1943, O'Malley permanently left his law practice and became Vice President and General Counsel to the team.<sup>277</sup> After obtaining a minority ownership stake, conflict developed between O'Malley and general manager and minority owner Branch Rickey over spending practices, alcohol, the construction of the team's spring training headquarters known as "Dodgertown," and manager Leo Durocher.<sup>278</sup> By 1950, O'Malley prevailed over Rickey and became President and majority owner.<sup>279</sup>

Although the team was thriving on the field (including its first World Series triumph in 1955), their home at Ebbets Field was not.<sup>280</sup> Over the next few years, O'Malley attempted to broker a deal with city leaders for a new stadium in Brooklyn, but a solution could not be found.<sup>281</sup>

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<sup>274</sup> *Id.* at 28. *See also* Brooklyn Tr. Co. v. Ravenna Ct. Jackson Heights, 50 N.Y.S.2d 354, 355 (Sup. Ct. 1944), *aff'd*, 269 A.D. 992, 59 N.Y.S.2d 160 (App. Div. 1945) (representing trust company in foreclosure action against apartment owner); Zellner v. Brooklyn Tr. Co., 70 N.Y.S.2d 114, 116 (Sup. Ct. 1947), *modified*, 273 A.D. 906, 77 N.Y.S.2d 347 (App. Div. 1948), *modified sub nom. In re Zellner*, 299 N.Y. 243, 86 N.E.2d 657 (1949) (petition by commercial tenant to set emergency rent for commercial property used as garage).

<sup>275</sup> NEIL J. SULLIVAN, *THE DODGERS MOVE WEST* 29 (1987).

<sup>276</sup> Roger Kahn, *Walter O'Malley in the Sunshine*, N.Y. TIMES (Jan. 8, 1978), [https://timesmachine.nytimes.com/timesmachine/1978/01/09/110759728.pdf?pdf\\_redirect=true&ip=0](https://timesmachine.nytimes.com/timesmachine/1978/01/09/110759728.pdf?pdf_redirect=true&ip=0) (noting that Brooklyn Trust Company asked O'Malley to look into debt owed by Dodgers which team could not repay); Mark Heisler, *The Dodgers as History Gold Over Blue*, WASH. POST (Apr. 24, 1990), <https://www.washingtonpost.com/archive/sports/1990/04/24/the-dodgers-as-history-gold-over-blue/971c73d4-3d66-4ef8-9862-69260be41006> (Brooklyn Trust Company declined to foreclose on \$350,000 debt because of fears that Dodger fans would close accounts as a result).

<sup>277</sup> *Biography*, WALTEROMALLEY.COM, <https://www.walteromalley.com/en/biography/short/Walter-OMalleys-Legacy> (last visited Jan. 8, 2024); D'ANTONIO, *supra* note 268, at 66.

<sup>278</sup> *See generally* D'ANTONIO, *supra* note 268, at 67-94.

<sup>279</sup> *Biography*, *supra* note 278; *see also* Shenkman v. O'Malley, 2 A.D.2d 567, 570, 157 N.Y.S.2d 290, 293 (1956) (hand surgeon brings libel action against O'Malley for comments relating to procedure performed by physician on Dodgers catcher (and future Hall of Famer) Roy Campanella).

<sup>280</sup> *Biography*, *supra* note 277.

<sup>281</sup> There were little to no legal efforts to keep the team in Brooklyn. *See* Robert M. Jarvis, *When the Lawyers Slept: The Unmaking of the Brooklyn Dodgers*, 74 CORNELL L. REV. 347, 348 (1989). *Cf.* Murray Chass, *A Group's Racketeering Suit Brings Baseball to Full Bristle*, N.Y. TIMES (July 17, 2002) (Canadian limited partners of Montreal Expos sue Commissioner Selig and others to prevent team's relocation); State Of Ohio

So, in October 1957, O'Malley made the announcement that would change baseball and make him a villain in Brooklyn.<sup>282</sup> The Dodgers would leave their New York home and play in Los Angeles beginning the following year.<sup>283</sup>

The move was made possible by a Los Angeles ordinance which approved a proposed contract between the city and the team. Los Angeles would convey 300 acres of city property in Chavez Ravine designed as a public park to the Dodgers; in exchange, the Dodgers would finance and build a new stadium.<sup>284</sup>

Excitement about the Los Angeles Dodgers was not universal, however. Challenges at the polls and in the courts were immediate. Opponents placed a referendum on the 1958 ballot seeking to disapprove the city ordinance.<sup>285</sup> Celebrities including Groucho Marx, Jack Benny, and Ronald Reagan lent their support to the cause of the Dodgers, and fifty-one percent of the voters approved the action of the city council.<sup>286</sup> However, within minutes of landing in Los Angeles with team officials, O'Malley was served by a process server in a lawsuit seeking to void the deal with the city.<sup>287</sup> The legal efforts to stop the stadium eventually proceeded to the California Supreme Court, where the court considered a novel question - did a privately owned stadium serve a public purpose?<sup>288</sup> In 1959, the court ruled in favor of O'Malley and the team, clearing the way for construction of Dodger Stadium.<sup>289</sup>

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v. Precourt Sports Ventures Llc, 2018 WL 1226073 (Ohio Ct. App.) (State of Ohio and City of Columbus sue owner-operator of Columbus Crew MLS franchise to prevent team's relocation to Austin, Texas).

<sup>282</sup> Three decades later the animosity showed up in trademark litigation. The federal judge in New York City described the move of the Dodgers in 1957 as "one of the most notorious abandonments in the history of sports." Major League Baseball Properties, Inc. & Los Angeles Dodgers, Inc. v. SED NON OLET DENARIUS, LTD., d/b/a The Brooklyn Dodger Sports Bar & Restaurant, Bums, Inc., d/b/a The Brooklyn Dodger, 817 F Supp. 1103, 1111 (S.D.N.Y. 1993) (trademark litigation over name of local sports bar).

<sup>283</sup> *Id.*

<sup>284</sup> City of Los Angeles v. Superior Ct. of Los Angeles Cnty., 51 Cal. 2d 423, 428-29, 333 P.2d 745, 747 (1959) ("The city council adopted an ordinance authorizing execution of a contract between the city and the Brooklyn National League Baseball Club, Inc., which provided, among other things, for the exchange of certain properties and for the ball club to erect a stadium and procure the transfer from Brooklyn to Los Angeles of the franchise of the major league baseball club known as the 'Dodgers'"); *see also* Smith v. City of Los Angeles, 190 Cal. App. 2d 112, 11 Cal. Rptr. 898 (Ct. App. 1961) (describing ordinance approved Oct 7, 1957).

<sup>285</sup> Jerald Podair, *How the California Supreme Court Saved Dodger Stadium and Helped Create Modern Los Angeles*, CAL. SUP. CT. HIST. SOC'Y NEWSL., Fall/Spring 2018, <https://www.cschs.org/wp-content/uploads/2018/12/2018-Newsletter-Fall-Dodger-Stadium.pdf>, at 2.

<sup>286</sup> SULLIVAN, *supra* note 275, at 159-60.

<sup>287</sup> Podair, *supra* note 285, at 3; D'ANTONIO, *supra* note 268, at 258.

<sup>288</sup> Podair, *supra* note 285, at 3.

<sup>289</sup> City of Los Angeles v. Superior Ct. of Los Angeles Cnty., 51 Cal. 2d 423, 434, 333 P.2d 745, 751 (1959) ("the fact that some of the provisions may be of benefit only to the baseball club is immaterial, provided the city receives benefits which serve legitimate public purposes."); *See also* Smith v. City of Los Angeles, 190

Dodger Stadium opened in 1962, financed entirely by private sources.<sup>290</sup> It is the third oldest stadium, after Fenway Park (1912) and Wrigley Field (1914).<sup>291</sup> It remains a testament to O'Malley's vision today.

*J. BOWIE KUHN (2008)*

The fifth commissioner of baseball, Bowie Kuhn joined the Hall of Fame in 2008.<sup>292</sup> Between 1969 and 1984, he presided over enormous growth in the game, from attendance and television revenues to the number of franchises and the postseason.<sup>293</sup> Kuhn is also remembered for championing the inclusion of Negro Leagues players into the Hall of Fame.<sup>294</sup>

Kuhn was raised in Washington and as a fan of the Senators, as his first job, he worked as the scoreboard boy at Griffith Stadium.<sup>295</sup> After graduating from Princeton, Kuhn attended the University of Virginia Law School, where he served on the editorial board of the law review before graduating in 1950.<sup>296</sup>

Kuhn then joined the New York City firm of Willkie, Owen, Farr, Gallagher, and Walton.<sup>297</sup> Much of his practice would be devoted to corporate law.<sup>298</sup> However, a few months after joining the firm, he approached a partner and asked to work on behalf of one of the firm's clients – the National League.<sup>299</sup> He soon joined the legal team defending the League in *Toolson v. New York Yankees, Inc.*,<sup>300</sup> the first challenge to baseball's antitrust exemption.<sup>301</sup> His most

Cal. App. 2d 112, 11 Cal. Rptr. 898 (Ct. App. 1961) (upholding judgments in prior actions under doctrine of res judicata). The ruling did not end the controversy. Mexican-American residents of the Chavez Ravine neighborhood refused to leave the property and were forcibly evicted by the city in May 1959. See Jesus Jimenez, *The Land Beneath This Stadium Once was Theirs. They Want it Back*, N.Y. TIMES (May 7, 2023), <https://www.nytimes.com/2023/05/07/sports/baseball/baseball-dodgers-reparations.html> (describing how descendants of landowners in Chavez Ravine are seeking reparations).

<sup>290</sup> *Dodger Stadium History*, MLB, <https://www.mlb.com/dodgers/ballpark/information/history> (last visited Jan. 8, 2024).

<sup>291</sup> *Id.*

<sup>292</sup> *Bowie Kuhn*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/kuhn-bowie> (last visited Jan. 8, 2024).

<sup>293</sup> *Id.*

<sup>294</sup> *Id.*

<sup>295</sup> KUHN, *supra* note 253, at 15.

<sup>296</sup> *Our History: Featured Alumni/ae: Kuhn, Bowie K., 1950*, UNIV. OF VA. ARTHUR J. MORRIS L. LIBR. GUIDES, <https://libguides.law.virginia.edu/c.php?g=39996&p=254214> (last visited Jan. 8, 2024).

<sup>297</sup> Vince Guerreri, *Bowie Kuhn*, SOC'Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/bowie-kuhn/> (last visited Jan. 8, 2024).

<sup>298</sup> *Id.*

<sup>299</sup> KUHN, *supra* note 253, at 18.

<sup>300</sup> 346 U.S. 356 (1953); KUHN, *supra* note 253, at 19-20.

<sup>301</sup> KUHN, *supra* note 253, at 19-20.

prominent representation of the National League occurred in 1965, when his client was sued by the State of Wisconsin when the Braves deserted Milwaukee (only thirteen years after arriving) to move to Atlanta.<sup>302</sup> Despite his personal dismay because the move gave baseball “an irresponsible, gypsy look,”<sup>303</sup> and despite a loss in the seven-week trial, the National League prevailed on appeal.<sup>304</sup> The Braves moved to the South.<sup>305</sup>

After the short tenure of Commissioner William (Spike) Eckert, a retired air force general,<sup>306</sup> Kuhn was selected as commissioner by the owners in February 1969.<sup>307</sup> During his fifteen years as Commissioner, he dealt with labor strikes,<sup>308</sup> he suspended players for drugs and gambling,<sup>309</sup> he barred Willie Mays and Mickey Mantle from baseball because they were promoting casinos,<sup>310</sup> he introduced night games into the World Series,<sup>311</sup> he presided over the battle for an expansion team in Toronto,<sup>312</sup> he suspended Braves owner Ted Turner and quarreled with Yankees owner George Steinbrenner,<sup>313</sup> and he dealt with the nightmare of drug abuse by players.<sup>314</sup> In the courtroom, he was sued by female sports reporters for a policy that barred them from locker rooms after a game<sup>315</sup> and by the owner of the Oakland Athletics<sup>316</sup> when he acted “in the best interest of baseball” by exercising the traditional powers of the Commissioner and cancelling the sale of three star players.<sup>317</sup>

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<sup>302</sup> State of Wis. v. Milwaukee Braves, Inc., 31 Wis. 2d 699, 144 N.W. 2d 1 (1966).

<sup>303</sup> KUHN, *supra* note 253, at 21. Future Commissioner Bud Selig headed a citizens’ effort to keep the Braves in Milwaukee.

<sup>304</sup> State of Wis., 31 Wis. 2d 699 at 18 (in light of Supreme Court decisions, Wisconsin antitrust law is inapplicable).

<sup>305</sup> Although Kuhn described the move of the Braves as a mistake, he felt a far greater one had occurred in 1957, when the Dodgers and the Giants moved west. See KUHN, *supra* note 253, at 22 (“People wept throughout the city”).

<sup>306</sup> Brian McKenna, *William Eckert*, SOC’Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/william-eckert/> (last visited Jan. 8, 2024).

<sup>307</sup> Guerreri, *supra* note 298.

<sup>308</sup> KUHN, *supra* note 253, at 303.

<sup>309</sup> *Id.* at 303, 324.

<sup>310</sup> *Id.* at 325, 330.

<sup>311</sup> Frederic J. Frommer, *How World Series Day Games Went Extinct*, WASH. POST (Oct. 27, 2022), <https://www.washingtonpost.com/sports/2022/10/27/world-series-day-games/>.

<sup>312</sup> KUHN, *supra* note 253, at 188–91.

<sup>313</sup> *Id.* at 260, 263.

<sup>314</sup> *Id.* at 303.

<sup>315</sup> *Ludtke v. Kuhn*, 461 F. Supp. 86, 87–88 (S.D.N.Y. 1978).

<sup>316</sup> *Charles O. Finley & Co. v. Kuhn*, 569 F. 2d 527, 530 (7th Cir. 1978).

<sup>317</sup> *Id.* at 531 (Commissioner’s authority to cancel sale upheld). Kuhn described this decision as most important in establishing his authority. KUHN, *supra* note 253, at 182.



Most significantly, Kuhn defended the reserve clause, which bound a player to his current team, in litigation filed by Cardinal outfielder Curt Flood.<sup>318</sup> Although the Supreme Court upheld the reserve clause based on stare decisis, *Flood* was circumvented by an arbitration panel's ruling, in a 2-1 decision, which permitted a player to "play out his year" and became a free agent.<sup>319</sup> That ruling was upheld in *Kansas City Royals Baseball Corp. v. Major League Baseball Players Assn.*,<sup>320</sup> setting the stage for collective bargaining between the players and the owners. In a gesture that many found to be too late and too shallow,<sup>321</sup> Congress finally acted to revoke baseball's antitrust exemption for labor matters by passing the Curt Flood Act of 1998.<sup>322</sup>

Following his tenure with baseball, Kuhn returned of counsel to the Wilkie firm where he was primarily involved in litigation and alternative dispute resolution.<sup>323</sup> In 1987, he then co-founded a new law firm which dissolved in bankruptcy two years later.<sup>324</sup> Kuhn quickly moved to Florida – allegedly to take advantage of the state's more lenient bankruptcy laws and evade service of

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<sup>318</sup> *Flood v. Kuhn*, 407 U.S. 258, 261-64 (1972). Justice Harry Blackmun's majority opinion, which recounts the history of baseball with a list of 88 baseball legends (including attorneys Jennings, Huggins, and Rickey) has arguably the most memorable opening of any Supreme Court opinion case. ("It is a century and a quarter since the New York Nine defeated the Knickerbockers 23 to 1 on Hoboken's Elysian Fields . . .").

<sup>319</sup> Joseph Durso, *Arbitrator Frees 2 Baseball Stars*, N.Y. TIMES (Dec. 24, 1975), <https://www.nytimes.com/1975/12/24/archives/arbitrator-frees-2-baseball-stars-arbitrator-frees-mcnally-and.html>.

<sup>320</sup> *Kansas City Royals Baseball Corp. v. Major League Baseball Players Assn.*, 532 F. 2d 615, 632 (8th Cir. 1976).

<sup>321</sup> Edmund P. Edmonds, *The Curt Flood Act of 1998: A Hollow Gesture After All These Years?*, 9 MARQ. SPORTS L. J. 315, 317 (1999).

<sup>322</sup> 15 U.S.C. § 26(b).

<sup>323</sup> *Once a Star Raw: Bowie Kuhn in NYC #1*, MEDIA BURN (Oct. 29, 1985), <https://mediaburn.org/video/once-a-star-raw-bowie-kuhn-in-nyc-1>. He also served as an expert witness for the National Basketball Association. See also Murray Chass, *Kuhn's Descent from Commissioner to Legal Outcast*, N.Y. TIMES (May 12, 1991), <https://www.nytimes.com/1991/05/12/sports/baseball-kuhn-s-descent-from-commissioner-to-legal-outcast.html> (firm reportedly did not want to hire him as full partner).

<sup>324</sup> Paul Richter, *Myerson & Kuhn Law Firm Files for Chapter 11*, L.A. TIMES (Dec. 29, 1989), <https://www.latimes.com/archives/la-xpm-1989-12-29-fi-1235-story.html>. The firm's clients included future president Donald Trump. *Id.* See also Chass, *supra* note 323.

process in civil suits by firm creditors seeking to recover more than \$3 million in unpaid loans.<sup>325</sup> The creditors were unsuccessful.<sup>326</sup>

### K. *TONY LA RUSSA (2014)*

The most recent lawyer to be inducted into the Hall of Fame is manager Tony La Russa. Inducted in 2014, La Russa managed the White Sox, A's, and Cardinals between 1979 and 2011, leading his teams to six pennants and three World Series titles.<sup>327</sup> He became the first Hall of Fame manager to return to the dugout after his induction when he managed the White Sox in 2021 and 2022.<sup>328</sup>

La Russa's legal education began during a mediocre playing career. Anticipating that his days as a player were numbered, he began taking law school classes after the 1973 season.<sup>329</sup> "I realized I wasn't going to make it [as a baseball player] so I needed another career."<sup>330</sup> "I always loved reading and problem solving and I had friends who were lawyers . . . so that seemed like that would be a good thing to do."<sup>331</sup>

For the next 5 years, La Russa was a player and player-coach during the season and a law student during the offseason.<sup>332</sup> La Russa fully intended to practice law. "I'd have bet [everything] I owned that I would have been a lawyer

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<sup>325</sup> See David Margolick, *Bowie Kuhn is Said to Be in Hiding*, N.Y. TIMES (Feb. 9, 1990), <https://www.nytimes.com/1990/02/09/business/bowie-kuhn-is-said-to-be-in-hiding.html> (Kuhn's lawyer denied that client was acting in bad faith, describing the former commissioner as "a busy fellow"). See also *In re Myerson & Kuhn*, 121 B.R. 145, 158–59 (Bankr. S.D.N.Y. 1990)

("Knowing of the pendency of litigation against him, Kuhn sold his house in New Jersey for \$1.2 million . . . removed assets from New York, became unlocatable for the service of process, and purchased a new home in Florida and apparently an annuity . . . with the intent to defeat creditors.")

See also Chass, *supra* note 323.

<sup>326</sup> See generally Larry Rohter, *Rich Debtors Finding Shelter Under a Populist Florida Law*, N.Y. TIMES (July 25, 1993), <https://www.nytimes.com/1993/07/25/us/rich-debtors-finding-shelter-under-a-populist-florida-law.html> (quoting unsuccessful opposing counsel).

<sup>327</sup> *Tony La Russa*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/la-russa-tony> (last visited Jan. 8, 2024).

<sup>328</sup> Jesse Rogers & David Schoenfield, *Wait, the White Sox Hired Tony La Russa? Why it Will or Won't Work and What Those Across MLB are Saying*, ESPN (Oct. 29, 2020), [https://www.espn.com/mlb/story/\\_/id/30218285/wait-white-sox-hired-tony-la-russa-why-work-across-mlb-saying](https://www.espn.com/mlb/story/_/id/30218285/wait-white-sox-hired-tony-la-russa-why-work-across-mlb-saying) (arguing that hiring could work because "La Russa was a lawyer before becoming a manager. He's smart and has already managed in both leagues in several eras").

<sup>329</sup> Lawrence Baldarasso, *Tony La Russa*, SOC'Y FOR AM. BASEBALL RSCH. (Apr. 17, 2014), <https://sabr.org/bioproj/person/tony-la-russa/>.

<sup>330</sup> Graham Bensinger, *Tony La Russa on Law School: Attorney Aspirations?*, YOUTUBE (Feb. 19, 2020), <https://www.youtube.com/watch?v=g0Uqb446pSA>.

<sup>331</sup> Baldarasso, *supra* note 329.

<sup>332</sup> Bensinger, *supra* note 330.

- I never thought I would survive 30 plus years [in baseball].”<sup>333</sup> La Russa used his baseball salary to pay his way through law school.<sup>334</sup> Although his family had little extra money, the investment in becoming an attorney was worth it.<sup>335</sup> “[My wife] thought she was marrying an attorney, not a manager.”<sup>336</sup> He graduated with a J.D. from Florida State University in 1978.<sup>337</sup>

However, La Russa’s path would change in 1979. After graduating, La Russa accepted a minor league managing job, intending to manage for a year or two before starting his legal career.<sup>338</sup> Midway through the season, he was promoted to manager of the Chicago White Sox - at which point he started to think that baseball could be a career.<sup>339</sup> Perhaps not entirely convinced of La Russa’s future success, White Sox owner Bill Veeck (himself a Hall of Famer) required La Russa to take the bar exam before retaining him for the 1980 season.<sup>340</sup>

La Russa successfully passed the bar exam and was admitted to the Florida Bar in July 1980.<sup>341</sup> He has never practiced law and his Florida law license is currently inactive.<sup>342</sup>

La Russa has, however, had one prominent brush with litigation (in which he did retain counsel).<sup>343</sup> In 2009, while La Russa was managing the Cardinals, an unknown individual created a false Twitter account and purported to post

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<sup>333</sup> *Id.*

<sup>334</sup> John Sawatsky, *Q&A with Tony La Russa*, ESPN (Nov. 29, 2011), [https://www.espn.com/mlb/story/\\_/id/7295580/mlb-tony-la-russa-discusses-unlikely-career-interview-guru-john-sawatsky](https://www.espn.com/mlb/story/_/id/7295580/mlb-tony-la-russa-discusses-unlikely-career-interview-guru-john-sawatsky).

<sup>335</sup> Bensinger, *supra* note 330.

<sup>336</sup> *Id.*

<sup>337</sup> Baldarasso, *supra* note 329.

<sup>338</sup> Sawatsky, *supra* note 334 (“I was convinced I was going to be a lawyer . . . but my wife, Elaine, and I decided I should take a job managing in the minors to get it out of my system”).

<sup>339</sup> Bensinger, *supra* note 330 (“I believed [that I would practice law] until 1979 in that second year in AAA when the White Sox opportunity came along”).

<sup>340</sup> *Id.* (“Mr. Veeck said I won’t give you this job in 1980 unless you take the bar”).

<sup>341</sup> Baldarasso, *supra* note 329.

<sup>342</sup> *Member Profile: Anthony La Russa Jr.*, FLA. BAR, <https://www.floridabar.org/mybarprofile/300756> (last visited Jan. 8, 2024).

<sup>343</sup> For other cases involving La Russa, see *Cox v. Blumberg*, No. A152198, 2018 Cal. App. Unpub. LEXIS 2596, at \*2 (2018) (bequest to Tony La Russa’s Animal Rescue Foundation); *Holzhausen v. Bi-State Dev. Agency*, 414 S.W.3d 488, 496-97 (Mo. Ct. App. 2013) (fan injured during 2006 Cardinals World Series parade claimed she was distracted by hearing that Tony La Russa was driving by); *Avila v. Citrus Cmty. Coll. Dist.*, 38 Cal. 4th 148, 164, 41 Cal. Rptr. 3d 299, 311, 131 P.3d 383, 393 (2006) (citing La Russa to support holding that being intentionally hit is an inherent risk of baseball); *Piersall v. Sportsvision of Chi.*, 230 Ill. App. 3d 503, 508, 172 Ill. Dec. 40, 43, 595 N.E.2d 103, 106 (1992) (defendant White Sox owners testify to broadcaster plaintiff’s false statements made about manager La Russa).

updates as *La Russa*.<sup>344</sup> *La Russa* then filed suit against Twitter, alleging trademark infringement, misappropriation of name, and other claims.<sup>345</sup> Twitter removed the account and the case was quickly settled.<sup>346</sup>

### III. IN THE DUGOUT: NOTABLE NON-ATTORNEY INDUCTEES

Although they did not graduate from law school or practice law, three other Hall of Famers are briefly worth mentioning for their impact on and connections with the legal profession.

#### A. *Billy Evans (1973)*

William George (“Billy”) Evans, a 1973 inductee, enrolled at Cornell in 1901 to study law.<sup>347</sup> However, after two and a half years, Evans withdrew from school and returned home to Youngstown, Ohio, to support his family when his father became sick.<sup>348</sup> Evans did not return to school; instead, he took a job as a sportswriter and umpired local baseball games.<sup>349</sup> At age 22, he became the youngest umpire in major league history and later served as an executive for the Indians, Red Sox, and Tigers.<sup>350</sup> He never practiced law.

#### B. *Bud Selig (2017)*

Bud Selig, MLB’s commissioner from 1992 to 2015, and previously the owner of the Milwaukee Brewers, was inducted to the Hall of Fame in 2017.<sup>351</sup> Although he has no legal training, he has taught law school classes since 2009, and in 2011 he was named Distinguished Lecturer in Sports Law and Policy at

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<sup>344</sup> Jillian Bluestone, Comment, *La Russa’s Loophole: Trademark Infringement Lawsuits and Social Networks*, 17 VILL. SPORTS & ENT. L.J. 573 (2010).

<sup>345</sup> Complaint, *La Russa v. Twitter, Inc.*, No. 09-488101 (N.D. Cal. 2009); Bluestone, *supra* note 344.

<sup>346</sup> Bluestone, *supra* note 344. Soon after the *La Russa* case, Twitter began using a blue checkmark to denote authentic celebrity accounts. After Elon Musk’s takeover in 2022, the company controversially began charging a fee for the verification. See Paul Guzzo, *How a Tampa Baseball Legend Helped Create the Twitter Checkmark*, TAMPA BAY TIMES (Apr. 24, 2023), <https://www.tampabay.com/life-culture/history/2023/04/24/tony-larussa-twitter-blue-checkmark/>.

<sup>347</sup> David W. Anderson, *Billy Evans*, SOC’Y FOR AM. BASEBALL RSCH., <https://sabr.org/bioproj/person/billy-evans/> (last visited Jan. 8, 2024); see also Blaine Friedlander, *For Hall of Famers Jennings and Evans, Baseball Diamonds are Forever*, CORNELL CHRON. (May 13, 2019), <https://news.cornell.edu/stories/2019/05/hall-famers-jennings-and-evans-baseball-diamonds-are-forever>.

<sup>348</sup> Anderson, *supra* note 347.

<sup>349</sup> *Id.*

<sup>350</sup> *Billy Evans*, NAT’L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/evans-billy> (last visited Jan. 8, 2024).

<sup>351</sup> *Bud Selig*, NAT’L BASEBALL HALL OF FAME, [https://baseballhall.org/hall-of-famers/selig-bud\\_](https://baseballhall.org/hall-of-famers/selig-bud_) (last visited Jan. 8, 2024).

Marquette University School of Law.<sup>352</sup> After ending his tenure as commissioner, he was appointed the Distinguished Professor of Sports in America at Arizona State University's Sandra Day O'Connor College of Law.<sup>353</sup> Selig regularly teaches a course entitled "American Society and Major League Baseball Since World War II"<sup>354</sup> and has co-authored law review articles on baseball jurisprudence and the antitrust exemption.<sup>355</sup> The school's Sports Law and Business Program was renamed after Selig in 2019.<sup>356</sup>

### C. Marvin Miller (2020)

2020 inductee Marvin Miller's leadership of the Major League Baseball Players Association from 1966 to 1982 revolutionized the legal employer-employee relationships in the game.<sup>357</sup> During his tenure, players obtained salary increases, the right to arbitration, challenged the reserve clause, and eventually obtained free agency.<sup>358</sup> Shortly before Miller's death in 2012, NYU Law School held a symposium to recognize Miller's leadership as a union organizer and his impact on the growth of the game.<sup>359</sup> Miller's remarks at the event touched on many of the legal issues he addressed during this tenure, from

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<sup>352</sup> *Major League Baseball Commissioner Bud Selig Joins Marquette University Law School as Distinguished Lecturer in Sports Law and Policy*, FOR THE RECORD: THE OFF. NEWSL. OF THE NAT'L SPORTS L. INST., Vol. 22, No. 1 & 2, Jan.-June 2011, <https://law.marquette.edu/assets/sports-law/pdf/221-2-final.pdf>, at 1-2. About one hundred years earlier, Commissioner Landis also lectured at Marquette Law. See Hylton, *supra* note 33.

<sup>353</sup> *Bud Selig to Teach at Arizona State's College of Law*, ASSOCIATED PRESS (Feb. 9, 2016, 9:15 PM), <https://apnews.com/747fc1e8e2b94ffab31d9cf2ac5f897a/bud-selig-teach-arizona-states-college-law>.

<sup>354</sup> Marshall Terrill, *Selig's Class a Big Hit with ASU Law Students*, ASU NEWS (Mar. 3, 2017), <https://asunow.asu.edu/20170303-arizona-impact-seligs-class-big-hit-asu-law-students> (quoting Selig: "I do love teaching, and the interaction with my students is just remarkable . . . I feel fortunate and am grateful that I'm able to impart the knowledge and experiences that I've had. . . . It's been a more rewarding experience than I had ever believed").

<sup>355</sup> Allan H. ("Bud") Selig et. al., *Baseball's Antitrust Exemption for Franchise Decisions: Its Justifications and Antitrust Law Implications for Other Professional Leagues*, 2019 WIS. L. REV. 421 (2019); see also Allan H. ("Bud") Selig & Matthew J. Mitten, *Baseball Jurisprudence: Its Effects on America's Pastime and Other Professional Sports Leagues*, 50 ARIZ. ST. L. J. 1171, 1171 (2018).

<sup>356</sup> Nicole Almond Anderson, *ASU Law Names Sports Law and Business Program for Allan 'Bud' Selig*, ASU NEWS (Sept. 3, 2019), <https://asunow.asu.edu/20190913-asu-law-allan-bud-selig-master-sports-law-and-business-program>.

<sup>357</sup> Peter Miller, *Celebration of Baseball Unionism*, 16 N.Y.U. J. LEGIS. & PUB. POL'Y 350 (2013) (quoting Miller's son: "My father, Marvin Miller, wasn't a lawyer, though his sense of justice changed labor-management relations in baseball more fundamentally than any legislation or court decision").

<sup>358</sup> *Marvin Miller*, NAT'L BASEBALL HALL OF FAME, <https://baseballhall.org/hall-of-famers/miller-marvin> (last visited Jan. 8, 2024). See also Robert F. Burk, *MARVIN MILLER, BASEBALL REVOLUTIONARY* viii-ix (2015).

<sup>359</sup> *NYU Law Honors Marvin Miller on 40th Anniversary of the First Strike in Sports History*, NYU LAW NEWS (Apr. 27, 2012), [https://www.law.nyu.edu/news/MILLER\\_MARVIN\\_BASEBALL\\_STRIKE](https://www.law.nyu.edu/news/MILLER_MARVIN_BASEBALL_STRIKE).

minimum wage laws to violations of the Sherman Antitrust Act.<sup>360</sup> His portrait has become part of the United States Supreme Court's collection in recognition of his contributions to the law of baseball.<sup>361</sup>

#### IV. IN THE STANDS: POSSIBLE FUTURE INDUCTEES

Finally, two other attorneys may join the eleven lawyers currently in Cooperstown: executive Theo Epstein and Commissioner Rob Manfred.

##### A. *Theo Epstein*

The next lawyer to be inducted into the Hall of Fame is likely to be executive Theo Epstein.<sup>362</sup> Epstein became the youngest general manager in MLB history when he took over the Red Sox in 2002.<sup>363</sup> He led the Red Sox to their first World Series title in 86 years in 2004 and added a second in 2007, before leading the Chicago Cubs to their first championship in 108 years in 2016.<sup>364</sup>

Epstein's legal training began shortly after his undergraduate career at Yale.<sup>365</sup> While working as director of baseball operations for the Padres, Epstein enrolled at the University of San Diego Law School.<sup>366</sup> He was encouraged to do so by the team's president and general manager, both to help further Epstein's career<sup>367</sup> and to fill the team's need for an attorney in the front office.<sup>368</sup>

Epstein attended law school while working full-time, but his employment

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<sup>360</sup> Marvin Miller, *Remarks: Reflections on Baseball and the MLBPA*, 16 N.Y.U. J. LEGIS. & PUB. POL'Y 352, 360-64 (2013) (discussing the 1972 strike).

<sup>361</sup> *NYU Law Honors Marvin Miller . . .*, *supra* note 359.

<sup>362</sup> See, e.g., Graham Womack, *Cubs' Theo Epstein Just Cemented His Baseball Hall of Fame Case*, SPORTING NEWS (Nov. 3, 2016), <https://www.sportingnews.com/us/mlb/news/world-series-2016-theo-epstein-cubs-baseball-hall-of-fame/1hz6su5apps7j1qfr14nesmr22> ("At 42, Theo Epstein has his ticket stamped for Cooperstown").

<sup>363</sup> Daniel G. Habib, *The Babe: Is 28-Year-Old Theo Epstein—The Youngest G.M. In History—Ready for One of Baseball's Most Scrutinized Jobs, Running the Red Sox? He'd Better Be*, SPORTS ILLUSTRATED: VAULT (Dec. 23, 2002), <https://vault.si.com/vault/2002/12/23/the-babe-is-28yearold-theo-epsteinthe-youngest-gm-in-historyready-for-one-of-baseball-s-most-scrutinized-jobs-running-the-red-sox-hed-better-be>.

<sup>364</sup> Tom Verducci, *The Rainmaker: How Cubs Boss Theo Epstein Ended a Second Epic Title Drought*, SPORTS ILLUSTRATED (Dec. 14, 2016), <https://www.si.com/mlb/2016/12/14/theo-epstein-chicago-cubs-world-series-rainmaker>.

<sup>365</sup> Habib, *supra* note 363.

<sup>366</sup> *Id.*

<sup>367</sup> *Id.*

<sup>368</sup> *Epstein '95 Talks Yale, News, Pro Athletics*, YALE DAILY NEWS (Mar. 30, 2015, 1:28 AM), <https://yaledailynews.com/blog/2015/03/30/epstein-95-talks-yale-news-pro-athletics/>.

with the Padres meant that he missed most of his classes.<sup>369</sup> Epstein graduated from law school in 2000,<sup>370</sup> passing the California bar exam shortly thereafter.<sup>371</sup> He has never practiced law but has credited his legal education with jumpstarting his baseball career<sup>372</sup> as well as teaching him to think critically.<sup>373</sup>

### B. Rob Manfred

Another candidate for future induction is MLB Commissioner Rob Manfred. Manfred, who has served as the tenth Commissioner since 2015, is a 1983 graduate of Harvard Law School where he was a member of the Harvard Law Review.<sup>374</sup> While at Harvard, he was inspired by Professor Archibald Cox (the former Watergate prosecutor and solicitor general) to pursue labor relations law.<sup>375</sup>

Following graduation, Manfred clerked for a federal judge in Massachusetts<sup>376</sup>, then joined the labor and employment section of Morgan, Lewis & Bockius where he eventually became a partner in 1992.<sup>377</sup> He represented management in labor disputes in federal court,<sup>378</sup> negotiated airline

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<sup>369</sup> Nathan Fox, *Prospectus Q&A: Theo Epstein, Part I*, BASEBALL PROSPECTUS (Feb. 9, 2004), <https://www.baseballprospectus.com/news/article/2546/prospectus-qa-theo-epstein-part-i/> (quoting Epstein: “I was very rarely in class. I selected the classes based on my best guess on the teachers’ attendance policies. The ones who never took attendance and didn’t care became my favorite teachers”).

<sup>370</sup> *USD School of Law Congratulates Alumnus and Chicago Cubs President Theo Epstein '00 (JD) for Winning the 2016 World Series*, USD NEWS CTR. (Nov. 3, 2016), [https://www.sandiego.edu/news/detail.php?\\_focus=57818](https://www.sandiego.edu/news/detail.php?_focus=57818).

<sup>371</sup> Habib, *supra* note 363.

<sup>372</sup> Fox, *supra* note 369 (describing how Epstein observed contract negotiations and drafted contract language); *Epstein '95 Talks Yale, News, Pro Athletics*, *supra* note 367 (describing how law degree allowed him to meet need for attorney in Padres front office).

<sup>373</sup> *Epstein '95 Talks Yale. . .*, *supra* note 372.

<sup>374</sup> Rob Manfred, *Commissioner of Major League Baseball*, MAJOR LEAGUE BASEBALL, <https://www.mlb.com/official-information/executives/rob-manfred> (last visited Jan. 8, 2024).

<sup>375</sup> *Inside Baseball: MLB Commissioner Rob Manfred '83 on Rules, Rulings and Marketing 'The American Pastime'*, HARVARD L. TODAY (Feb. 4, 2016), <https://today.law.harvard.edu/inside-baseball-mlb-commissioner-rob-manfred-83-on-rules-rulings-and-marketing-the-american-pastime/>.

<sup>376</sup> Michael O’Keefe, *Rob Manfred, MLB’s New Commissioner, Built Resume Through Successes on Labor and Anti-Doping Front*, N.Y. DAILY NEWS, <https://www.nydailynews.com/sports/baseball/rob-manfred-mlb-new-commissioner-built-resume-successes-labor-anti-doping-front-article-1.1904191> (Jan. 9, 2019, 7:46 PM).

<sup>377</sup> Manfred, *supra* note 374. Manfred had been a summer associate at the firm in 1981. See *Inside Baseball: . . .*, *supra* note 375.

<sup>378</sup> Tim Elfrink & Gus Garcia-Roberts, *The Consigliere Commissioner*, GRANTLAND (Nov. 3, 2014), <https://grantland.com/features/the-consigliere-commissioner-rob-manfred-mlb-bud-selig-alex-rodriguez-peds-steroids-suspension/>.

and hospital labor disputes,<sup>379</sup> and was recognized by his colleagues for both his brief-writing ability and deal-making.<sup>380</sup>

The firm served as outside counsel to Major League Baseball beginning in 1987.<sup>381</sup> Manfred was involved in the collective bargaining negotiations during the 1990 lockout.<sup>382</sup> In 1995, Manfred and his colleagues argued on behalf of the owners in federal district court before future Supreme Court Justice Sonia Sotomayor.<sup>383</sup> Judge Sotomayor ruled against the owners, issuing a preliminary injunction restoring the expired collective bargaining agreement and effectively ending the strike which threatened the 1995 season.<sup>384</sup>

By 1996, MLB was Manfred's primary client, and he left private practice in 1998 to join the commissioner's office as executive vice-president of labor relations and human resources.<sup>385</sup> The remainder of his career will determine whether he joins Landis, Chandler, and Kuhn as the 4th attorney-commissioner in Cooperstown.

## V. CONCLUSION

The stories of these eleven Hall of Famers, like the careers of each attorney, are unique. For three attorneys (Huggins, Rickey, La Russa), the law was always secondary to the game - a means to make a living or to satisfy family obligations. In the early years of the game, three players (Jennings, O'Rourke, Ward) pursued legal studies while playing the game and practiced law full-time during the offseason or retirement. And five executives (MacPhail, Landis, Kuhn,

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<sup>379</sup> Jerry Crasnick, *Behind the Scenes: Rob Manfred*, ESPN (Jan. 25, 2015), [https://www.espn.com/mlb/story/\\_/id/12212565/meet-major-league-baseball-new-commissioner-rob-manfred](https://www.espn.com/mlb/story/_/id/12212565/meet-major-league-baseball-new-commissioner-rob-manfred) ("Colleagues and adversaries have described him as brilliant, creative and pragmatic enough to make deals.").

<sup>380</sup> Elfrink & Garcia-Roberts, *supra* note 378 (Manfred "displayed a knack for unearthing minutiae that could swing a case in his clients' favor").

<sup>381</sup> *Id.*; O'Keefe, *supra* note 376.

<sup>382</sup> O'Keefe, *supra* note 376.

<sup>383</sup> Sotomayor's ruling came up during her confirmation hearings. See Christian H. Brill & Howard W. Brill, *Take Me Out to the Hearing: Major League Baseball Players Before Congress*, 5 ALB. GOVT. L. REV. 90, at 113; Elfrink & Garcia-Roberts, *supra* note 377.

<sup>384</sup> *Silverman v. Major League Baseball Player Rel. Comm.*, 880 F. Supp. 246, 250 (S.D.N.Y. 1995). See also *Transcript of Obama-Sotomayor Announcement*, CNN (May 26, 2009), <https://www.cnn.com/2009/POLITICS/05/26/obama.sotomayor.transcript/index.html> ("In a decision that reportedly took her just 15 minutes to announce -- a swiftness much appreciated by baseball fans everywhere, she issued an injunction that helped end the strike. Some say that Judge Sotomayor saved baseball."). Sotomayor took a dim view of Manfred's legal arguments on behalf of the owners: "The owners misunderstood the case law, and many of their arguments were inconsistent . . . [o]ne side can't come up with new rules unless they negotiate it with the other"). See Sean Gregory, *How Sotomayor 'Saved' Baseball*, TIME (May 26, 2009), <http://content.time.com/time/nation/article/0,8599,1900974,00.html>.

<sup>385</sup> Elfrink & Garcia-Roberts, *supra* note 378 (quoting Manfred: "[By 1996], 'I was essentially dedicated full time to baseball'").



Chandler, O'Malley) found that their initial careers as attorneys were stepping stones that served them well when they entered the game of baseball.

However, taken as a whole, the careers of these attorney Hall of Famers illustrate two important benefits of the law. First, legal education and legal practice teaches an attorney practical skills. Theo Epstein is able to negotiate, draft, and analyze players' contracts as a result of his legal training.<sup>386</sup> Monte Ward challenged the reserve clause with legal arguments.<sup>387</sup> Walter O'Malley's legal real estate and banking practice strengthened his hand in dealing with Brooklyn and Los Angeles authorities as he moved the Dodgers to the West Coast.<sup>388</sup>

Second, the law teaches analytical thinking - how to "think like a lawyer."<sup>389</sup> Lawyers are taught to consider alternative perspectives, anticipate arguments, and advocate for their clients. Bowie Kuhn, for example, found that his perspective as an attorney enabled him to better resolve disputes as commissioner.<sup>390</sup> These skills are valuable in any profession, including the game of baseball.<sup>391</sup>

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<sup>386</sup> Fox, *supra* note 369 (quoting Epstein:

"So by going to law school and getting the degree, if there was a negotiation where maybe [the Padres GM] would only have the assistant general manager with him, in this case he would approve me as well—if only [to] do the contract language. Getting that seat at the table gave me the opportunity to be involved, and then my responsibilities grew from there.").

<sup>387</sup> Cynthia Bass, *The Making of a Baseball Radical*, THE NATIONAL PASTIME: A REVIEW OF BASEBALL HISTORY (Fall 1982), [http://research.sabr.org/journals/files/SABR-National\\_Pastime-02.pdf](http://research.sabr.org/journals/files/SABR-National_Pastime-02.pdf), at 65 ("Ward seemed to be learning how to bring his legal training into play. He was starting to talk specifics, starting to talk morality, starting to talk money. He was beginning, in short, to sound like a lawyer").

<sup>388</sup> *Major League Baseball Prop., Inc. and L.A. Dodgers, Inc. v. Sed Non Olet Denarius, LTD., d/b/a The Brooklyn Dodger Sports Bar & Rest., Bums, Inc., d/b/a The Brooklyn Dodger*, 817 F Supp. 1103, 1111 (S.D. N.Y. 1993).

<sup>389</sup> *Montana v. Egelhoff*, 518 U.S. 37, 78, 116 S. Ct. 2013, 2034, 135 L. Ed. 2d 361 (1996).

(J. Souter, dissent) (citing Teachout, *Sentimental Metaphors*, 34 UCLA L.Rev. 537, 545 (1986) ("[L]earning to think like a lawyer is when you learn to think about one thing that is connected to another without thinking about the other thing it is connected to").

<sup>390</sup> See *Once a Star Raw: Bowie Kuhn in NYC #1*, *supra* note 323 ("One of the jobs of a commissioner is to act as [baseball's] chief judicial officer").

<sup>391</sup> See Joe Forward, *A National Niche and a Baseball Deal to Remember*, WIS. LAW. (Sept. 1, 2012), <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=85&Issue=9&ArticleID=10238> (quoting La Russa: "Law school didn't teach me how to hit the ball or how to run or how to pitch. But, because of law school, I see the game playing out in front of me on the field in a very different way. My legal training taught me to put myself in our opponents' dugout. Law school taught me how to analyze and how to best deal with a specific situation . . . . The best degree a baseball manager can get is a J.D. The law degree taught me how to study, how to think, and how to implement and develop a strategy."); Epstein '95 Talks Yale. . . , *supra* note 368 (quoting Epstein: "People ask what you take out of law school, and it did help cement a way of thinking. But all of the technical legal stuff, you jettison from your mind the day

As the benefits of practical legal skills and analytical thinking demonstrate, baseball and the law are uniquely and indisputably intertwined. From the jurisprudential musings of a Hall of Fame catcher<sup>392</sup> to the intricacies of baseball rules,<sup>393</sup> from the role of judges as umpires<sup>394</sup> to the development of legal arguments,<sup>395</sup> baseball informs and shapes the law. Lawyers, like baseball players, rise to glory but risk succumbing to temptations and falling from grace.<sup>396</sup> Both professions, and their participants, have much to teach the other.

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after you take the bar exam.”); *Is Tony LaRussa a Better Manager Because of his Legal Education?*, SPORTS NEWS UPDATES (Oct. 24, 2011), <http://sportnewszz.blogspot.com/2011/10/is-tony-larussa-better-manager-because.html> (quoting Michael McCann, director of Vermont Law School’s Sports Law Institute (“A good lawyer is someone who is receptive to hearing both sides of an argument and to thinking critically about different perspectives . . . [La Russa] has a track-record of listening to coaches before making a decision, and his legal education may have led to that”). See also Steve Wulf, *Catch Chicago’s New Act*, SPORTS ILLUSTRATED: VAULT (June 8, 1981), <https://vault.si.com/vault/1981/06/08/catch-chicagos-new-act-theresa-hit-show-on-the-south-side-with-newcomers-carlton-fisk-and-greg-luzinski-socko-in-the-starring-roles> (quoting White Sox SS Bill Almon: “I also like having a manager who’s a lawyer. Tony is always thinking ahead, as if he were in a courtroom, and he always has a reason for what he does.”).

<sup>392</sup> Araiza et al., *The Jurisprudence of Yogi Berra*, 46 EMORY L. J. 697, 699 (1997).

<sup>393</sup> Aside, *The Common Law Origins of the Infield Fly Rule*, 123 U. PA. L. REV. 1474 (1975). Although published anonymously, University of Pennsylvania law student William Stevens was later revealed to have been the author of this oft-cited article. See Eldon L. Ham, *Aside the Aside, The True Precedent of Baseball in Law*, 13 MARQ. SPORTS L. REV. 213, 214 (2003). On the rule against foreign substances on baseball bats, see Raymond Belliotti, *Billy Martin and Jurisprudence: Revisiting the Pine Tar Case*, 5 ALB. GOV’T L. REV. 210 (2012).

<sup>394</sup> Theodore A. McKee, *Judges as Umpires*, 35 HOFSTRA L. REV. 1709 (2007) (building on the testimony of Chief Justice John Roberts during his confirmation hearings; “Judges are like umpires. Umpires don’t make the rules, they apply them. . . [I]t’s my job to call balls and strikes, and not to pitch or bat”); *Chief Justice Roberts Statement - Nomination Process*, U.S. CTS., <https://www.uscourts.gov/educational-resources/educational-activities/chief-justice-roberts-statement-nomination-process> (last visited Jan. 8, 2024).

<sup>395</sup> Josephine R. Potuto, *Swinging at the Facts: How Baseball Informs Legal Argument*, 78 LA. L. REV. 245, 249–50 (2017) (drawing analogies between litigation and baseball, including between the stages of a trial and the innings of a game; between discovery and preparation for the game; between direct and cross examination and the top and bottom of an inning; between fielding and objections; between the rebuttal argument on appeal and a walk-off home run).

<sup>396</sup> See Howard W. Brill, *Baseball and the Legal Profession*, 1992 ARK. L. NOTES 83 (law school graduation speech suggesting nine similarities between baseball and the legal profession, including specialized attire, a unique vocabulary, the duty of confession, and the danger of pride. “As we walk through the fields of life, we all dream dreams, we all see visions, we all hear voices. Some of us, some of you, may have dreamed of playing major league baseball, and that dream probably will not be achieved. But all of you graduates have dreamed of being attorneys and that dream is coming true. Congratulations!”).

## APPENDIX

<u>Lawyers in the Baseball Hall of Fame</u>			
<b>Member</b>	<b>Year of Admission</b>	<b>Category</b>	<b>Law School</b>
Happy Chandler	1982	Executive	University of Kentucky (1924)
Miller Huggins	1964	Manager	University of Cincinnati (1902)
Hughie Jennings	1945	Player	Cornell (1905)
Bowie Kuhn	2008	Executive	University of Virginia (1950)
Kenesaw Mountain Landis	1944	Executive	Union College/Northwestern (1891)
Tony La Russa	2014	Manager	Florida State University (1978)
Larry MacPhail	1978	Executive	George Washington University (1910)
Walter O'Malley	2008	Executive	Fordham (1930)
Jim O'Rourke	1945	Player	Yale (1887)
Branch Rickey	1967	Executive	University of Michigan (1911)
John (Monte) Ward	1964	Player	Columbia (1885)