

BLACK SOX SCANDAL



Vol. 11, No. 2, December 2019

Research Committee Newsletter

Leading off ...

What's in this issue

- ◆ SABR Black Sox Centennial Symposium recap **PAGE 1**
- ◆ ESPN's "Backstory" to premiere in January 2020 **PAGE 2**
- ◆ Infamous America podcast series hits #1 on Apple charts . . . **PAGE 6**
- ◆ Rothstein, Attell, and the World Series payoff **PAGE 7**
- ◆ Listen to highlights from 2019 Eight Myths Out events . **PAGE 10**
- ◆ MLB Field of Dreams game set to take place in Iowa **PAGE 11**
- ◆ Did 'just cause' exist for Buck Weaver's punishment? . . . **PAGE 12**
- ◆ Judge Landis and baseball's ban hammer **PAGE 18**
- ◆ Ben Short, Black Sox defense attorney **PAGE 21**
- ◆ Around the Web **PAGE 26**

Chairman's Corner

By Jacob Pomrenke
buckweaver@gmail.com

What a whirlwind of a year! I can't predict what the Black Sox bicentennial is going to bring 100 years from now, but it's sure going to be hard to top all the fun we had in 2019.

Perhaps we'll have a few more answers to the questions we've been asking all year long. Hopefully our modern research still will be studied — and questioned and updated — by future historians. Maybe we'll even have Harry Grabiner's full diary by then ...

No matter what happens, the SABR Black Sox Scandal Committee can look back on what all we accomplished in 2019 with considerable pride.

The bright spotlight for the

➤ Continued on page 6



A capacity crowd of more than 200 people attended the SABR Black Sox Scandal Centennial Symposium on Saturday, September 28, 2019, at the Chicago History Museum. Baseball fans gathered in the Morse Genius Chicago Room to discuss the continued relevance of the 1919 World Series and its aftermath. (Photo: Jason Schwartz)

Symposium draws 200+ to Chicago for centennial

By Jacob Pomrenke
buckweaver@gmail.com

"People will come, Ray."

They sure did — more than 200 in all — to the SABR Black Sox Scandal Centennial Symposium, held on September 28, 2019, at the Chicago History Museum. They were there to commemorate the 100th anniversary of the 1919 World Series and hear a distinguished lineup of panelists and presenters talk about the events of that notorious year.

Judging from the interest by so many baseball fans in Chicago that weekend and all over the world in 2019, we should still have plenty to talk about another century from now, as well.

Members of our SABR committee have long known how easy it is to fall down the rabbit hole and dive deeper into the lore of the Black Sox Scandal. While we've been able to answer plenty of questions and debunk many myths so far, there are still plenty of answers waiting to be uncovered in the future.

That's a large part of the reason why it remains such a fascinating cultural touchstone. And it's also as relevant as ever, with sports gambling on the rise and baseball's integrity under fire again after the most recent World Series.

The symposium explored some of what we've learned over the past 100 years and also how the Black Sox Scandal can provide more insight on

➤ Continued on page 5



ESPN'S BACKSTORY TO AIR IN JANUARY 2020

In the next episode of ESPN's new *Backstory* documentary series, Pulitzer Prize-winning reporter Don Van Natta Jr. digs into two baseball players who received the ultimate punishment. In exploring Shoeless Joe Jackson and Pete Rose, he finds a drama that is still playing out a century after it began.

The "Banned For Life*" episode is scheduled to premiere on ESPN at 3:00 p.m. ET on **Sunday, January 19, 2020**. The show will re-air several times that week and also will be available afterward on the ESPN+ subscription streaming service.

Watch a trailer of the episode at espn.com/video/clip?id=27853857

The episode features original interviews with SABR Black Sox Scandal Committee members, along with Pete Rose, former MLB commissioner Fay Vincent, filmmaker John Sayles, and more.

The first episode of *Backstory* debuted in August and focused on tennis star Serena Williams.

Download your free copy of *Scandal on the South Side*

Scandal on the South Side: The 1919 Chicago White Sox, edited by Jacob Pomrenke, with associate editors Rick Huhn, Bill Nowlin, and Len Levin, is **now available from the SABR Digital Library**.

Scandal on the South Side is the first comprehensive book focused on the star-studded, dissension-riddled team that won the 1919 American League pennant and then threw the World Series — with full-life biographies of every player and official involved with that fateful team.

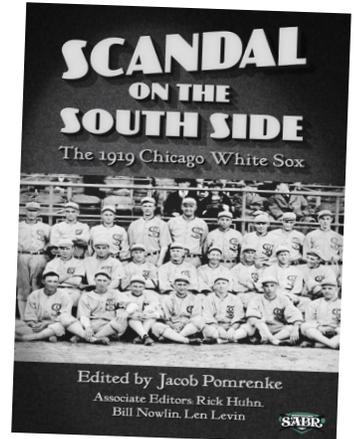
This book isn't a rewriting of *Eight Men Out*, but it is the complete story of everyone associated with the 1919 Chicago White Sox.

Order the book:

The book can be ordered online at SABR.org/ebooks.

All SABR members can download the e-book edition for free in PDF, EPUB, or Kindle formats. SABR members also get a 50% discount to purchase the paperback edition. The retail price is \$19.95 for the paperback or \$9.99 for the e-book.

Read the bios online: All biographies from the book can also be read online at the SABR BioProject. Visit SABR.org/category/completed-book-projects/1919-chicago-white-sox to find them all.



Free download available
at SABR.org/ebooks

Black Sox Scandal Research Committee

Committee chairman:

Jacob Pomrenke, buckweaver@gmail.com

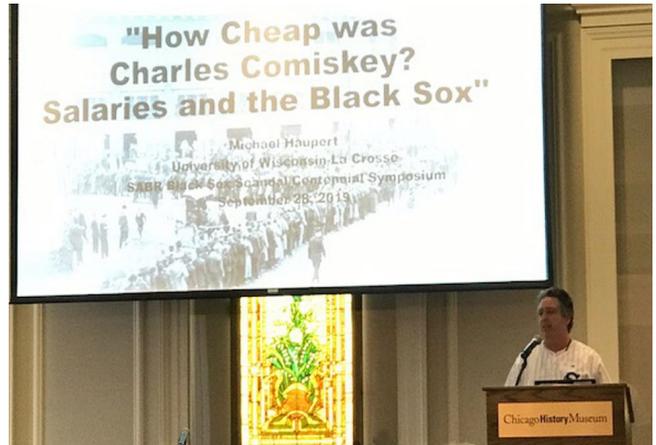
E-mail list manager:

Rod Nelson, rodericnelson@gmail.com

Newsletter editors: Mark Dugo,
Rick Huhn, Steve Klein, Bill Lamb

**Post questions, discussion in our
email listserv:** <http://bit.ly/1919SoxYahoo>

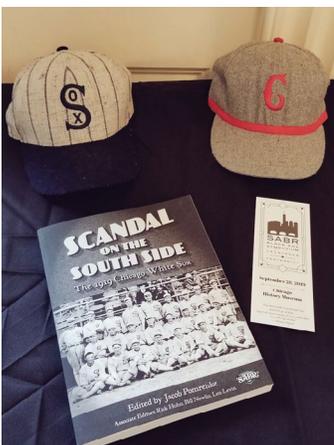
SABR BLACK SOX SCANDAL CENTENNIAL SYMPOSIUM



Left: Dr. Susan Dellinger holds a copy of her book, *Red Legs and Black Sox* following the symposium. Middle: Mike Noren of Gummy Arts provided original, illustrated Black Sox baseball cards to symposium attendees. Right: Michael Hauptert presents on Charles Comiskey and 1919 White Sox player salaries. (Photos: Adrian Fung, Mike Bates, Jason Schwartz)



Left: Bill Savage, Daniel Nathan, David Pietrusza, and Jacob Pomrenke lead off the symposium with a panel on the 100-year legacy of the Black Sox Scandal. Right: Attendees gather in the Chicago History Museum lobby to pick up their registration packets before the festivities begin upstairs. (Photos: Nathan Bierma, Jacob Pomrenke)



Left: Commemorative bookmarks were given out to all attendees and copies of *Scandal on the South Side* were signed. Middle: Panelists and presenters gather for a post-symposium dinner at Orso's in Old Town following the event. Right: Kevin Braig presents on sports gambling from 1919 to 2019. (Photos: Mark Aubrey, Jacob Pomrenke, Nathan Bierma)

SABR BLACK SOX SCANDAL CENTENNIAL SYMPOSIUM



Left: The White Sox's scheduled doubleheader on Friday, September 27 was cancelled after just four innings of play at Guaranteed Rate Field. Right: Richard Smiley holds an umbrella at Courthouse Place, the former home of the Cook County Courthouse, during a Chicago history walking tour led by Jacob Pomrenke. (Photos: Bill Savage, Jose Osorio/Chicago Tribune)



Left: Jacob Pomrenke leads a Chicago history walking tour as Adrian Fung and Thomas Biblewski look on outside the Art Institute on Michigan Avenue. Right: Pomrenke points out the Black Sox Scandal's connection to the Congress Hotel during the Sunday walking tour. (Photos: Nathan Bierma, Tracy Greer)



Left: Our SABR symposium was front-page news in the *Chicago Tribune* on Tuesday, October 1. Middle: On Friday, about 30 attendees gathered outside the Chicago Public Library main branch to start the baseball history walking tour. Right: Nisei Lounge welcomed symposium attendees for an afterparty on Saturday night. (Photos: Tracy Greer, Jacob Pomrenke)

► SYMPOSIUM

Continued from page 1

the sports landscape into the 21st century.

Daniel Nathan, a panelist and author of *Saying It's So: A Cultural History of the Black Sox Scandal*, said the scandal is an inexhaustible subject that involves so many elements of the American social fabric: crime and punishment, myth and memory, and so much more.

It's not just a baseball story — and “it never is,” said Bill Savage, a Northwestern University professor and baseball author/historian. He said the scandal still holds such a strong appeal on people for the same reasons that Chicago's gangland wars are often romanticized in popular culture. “It's as much Al Capone as Arnold Rothstein,” he said.

A major focus of the symposium was the legacy of Eliot Asinof's *Eight Men Out*, long considered to be the definitive history of the Black Sox Scandal. The best-selling book has come under scrutiny for its inaccuracies and invented characters and dialogue.

“It's still a great read. But it's not credible history. It's what I'd call historical fiction,” said panelist Bill Lamb, author of *Black Sox in the Courtroom: The Grand Jury, Criminal Trial and Civil Litigation*. “But until about 2002 [when the late Gene Carney began building what would become the SABR Black Sox committee], it was the first, last, and only stop when it came to the Black Sox.”

“Certainly, it was a very good book, but paragraph by paragraph it didn't make sense,” said panelist David Pietrusza, the author of *Judge and Jury* on baseball commissioner Kenesaw Mountain Landis and *Rothstein* on Arnold Rothstein.

The most criticized aspect of Asinof's book — which was highlighted in SABR's [Eight Myths Out](#) project — is his thesis that the Black Sox players agreed to participate in the World Series fix because they were disgruntled at White Sox owner Charles Comiskey's low pay and poor treatment.

Michael Hauptert, an economics professor at the University of Wisconsin-La Crosse, presented a paper on the 1919 White Sox salaries and the myth that they were underpaid relative to other major-league players.

“How cheap was Charles Comiskey?” he said. “Very cheap. But no cheaper than anybody else at the time. ... The White Sox were not a poorly paid team.”

Dr. Susan Dellinger shifted the focus to the Cincinnati Reds — who beat the White Sox back in 1919 — with a lively talk on her grandfather, Hall of Fame center fielder Edd Roush. The Reds often get dismissed in any discussion about the fixed World Series, but Dellinger explained they were deserving champions in their own right. She also explored a story that Roush often told, about how Reds pitcher Hod Eller was approached by a gambler looking to bribe him before his final start in the World Series.

LISTEN TO SYMPOSIUM HIGHLIGHTS

Visit SABR.org/2019-black-sox-symposium to listen to audio highlights from the SABR Black Sox Scandal Centennial Symposium at the Chicago History Museum:

Say It Ain't So: The Legacy of the Black Sox Scandal

Panelists: Daniel Nathan, David Pietrusza, Bill Savage. Moderator: Jacob Pomrenke.

How Cheap was Charles Comiskey? Salaries and the Black Sox

Presenter: Michael Hauptert

The 1919 Cincinnati Reds, Synthetic Champions?

Presenter: Dr. Susan Dellinger

Sports Gambling From 1919 to 2019

Presenter: Kevin P. Braig

Eight Myths Out: Shedding New Light on Baseball's Darkest Hour

Panelists: Bruce S. Allardice, Rick Huhn, Bill Lamb. Moderator: Jacob Pomrenke.

Kevin Braig, an Ohio-based attorney and longtime Reds fan, gave a presentation on sports gambling in the early 20th century, which focused on Chicago bookmaker Mont Tennes and the use of cutting-edge technology to gain an influence on the betting markets. Braig also gave an overview of the modern world of sports gambling and whether the Black Sox Scandal could happen again today.

The panelists also debated the severity of the punishment delivered by commissioner Landis to the Eight Men Out, especially Shoeless Joe Jackson and Buck Weaver.

“The most important decision he makes is to ban Weaver,” said Pietrusza, adding that the harsh punishment against a player who wasn't accused of accepting a bribe helped put an end to baseball's epidemic of game-fixing and gambling in the Deadball Era.

In addition to the SABR symposium at the Chicago History Museum, the weekend was also highlighted by two baseball history walking tours through the downtown Loop, a White Sox game (that was unfortunately called early by rain), and an afterparty at Nisei Lounge, one of the most historic baseball bars in the Wrigleyville neighborhood.

For more photos and highlights from the weekend festivities, visit SABR.org/2019-black-sox-symposium.

Black Sox podcast series hits #1 on Apple charts

The new *Infamous America* podcast series on the Black Sox Scandal hit No. 1 on Apple Podcasts' history charts and more than 250,000 listeners tuned in to hear about the 1919 World Series this summer.

Produced and hosted by Chris Wimmer of *Black Barrel Media*, Season 2 of the *Infamous America* series debuted on Wednesday, August 7 with a weekly six-episode narrative arc of the Black Sox Scandal.

SABR's Jacob Pomrenke worked behind the scenes as a technical adviser to help shape the story of the 1919 World Series using the best available research. SABR's *Scandal on the South Side* book was used as source material and the Black Sox Scandal Research Committee was acknowledged in each episode.

In bonus episodes, Pomrenke was interviewed about the



Eight Myths Out project and Mike Nola of BlackBetsy.com was interviewed about the legacy of Shoeless Joe Jackson.

After the first three episodes aired in August, the *Infamous America* podcast was added to Apple's "New & Noteworthy" list, alongside notable series from outlets such as the *New York Times* and National Public Radio. By August 27, *Infamous America* had been downloaded so many times that it shot up the charts and became the top history-related podcast on Apple's charts.

You can listen to the *Infamous America* Black Sox series on your favorite podcast app or streaming service, including Apple Podcasts, Spotify, Stitcher, or Google Play. To learn more or to listen online, visit blackbarrelmedia.com/infamous-america.

► CHAIRMAN

Continued from page 1

100th anniversary turned on as soon as the calendar flipped to January 1 — I received two emails on New Year's Day asking for information and an interview request about the scandal — and it didn't let up until weeks after the World Series ended.

From the launch of our Eight Myths Out project to the chart-topping *Infamous America* podcast series to the upcoming ESPN *Backstory* documentary, it seems everyone was interested in learning more about the 1919 World Series. And thanks to the hard work of so many committee members — most especially Bill Lamb, Rick Huhn, Bruce Allardice, Bill Felber, and Mike Nola — we were fully prepared for the onslaught of attention from the media and the general public around the world.

Our committee members played a huge role in shaping the media narrative of the Black Sox Scandal in 2019, with features and profiles by the *Chicago Tribune*, *The Athletic*, ESPN.com, PBS NewsHour, the Associated Press and United Press International, NPR's "Only A Game," CBC Radio's "Sunday Edition," *L'Equipe*, the *National Post*, *Newsday*, Fox Sports Ohio, *Cincinnati Magazine*, Baseball Prospectus, and so many other outlets.

I was also fortunate to be invited on a number of baseball podcasts and radio shows to talk about our committee's work, including "SABRcast" with Rob Neyer, MLB Network Radio's "Behind the Numbers: Baseball SABR Style" with Vince Gennaro, "Effectively Wild" with Ben Lindbergh, "WARP in Cincinnati" with C. Trent Rosecrans, "Baseball by the Book" with Justin McGuire, "The Ringer MLB Show" with Michael Baumann, NBC Chicago's

"White Sox Talk" with Chuck Garfien and Chris Kamka, "Badder Beats" with Brant James, "Sox Machine" with Jim Margalus, and "This Week in Baseball History" with Michael Bates and Bill Parker.

The attention all culminated with our spectacular Centennial Symposium at the Chicago History Museum in September — a truly once-in-a-century event! We had a distinguished lineup of panelists and presenters, including some of the folks above along with David Pietrusza, Daniel Nathan, Bill Savage, Susan Dellinger, Michael Hauptert, and Kevin Braig, who helped put the story into context and provided insight on our collective understanding of the scandal to a capacity crowd of more than 200 people.

None of this could have been accomplished without a lot of help behind the scenes. Special thanks go out to Erika Johnson, Jessica Trent, Peter Alter, and Julie Wroblewski of the Chicago History Museum; Allie O'Reilly of the Chicago White Sox, Hope Murden of the Palmer House Hilton; Rich Hansen, Richard Smiley, Lorene Kennard, Bill Pearch, and Jason Schwartz of SABR's Emil Rothe Chicago Chapter; Sarah Wiener for the amazing symposium logo; Mike Noren of Gummy Arts for the illustrated Black Sox baseball cards; and especially Tracy Greer for ... just about everything else involved with planning and organizing such a wonderful event.

It's a testament to how much people still care about this story 100 years later and how much we're still learning about the Black Sox Scandal. Of course, we still have a few more big anniversaries coming up, with the grand jury next year and then the criminal trial in 2021. But first, let's take a minute to enjoy this moment. It's been a fun year!

For more information about SABR's Black Sox Scandal Research Committee, e-mail buckweaver@gmail.com.

Rothstein, Attell, and the World Series payoff

By Ron Coleman
ronandvicki@msn.com

Modern scholarship recognizes the importance of the reporting of Hugh Fullerton, Irving Sanborn, Charles Dryden, and Bert E. Collyer to our current understanding of the Black Sox Scandal. These sources not only helped break the initial story, but their work forced guilty parties to initiate efforts to craft cover stories. The clues left by these sources have become the bread crumbs by which the full story of the Black Sox Scandal may be revealed.

One example is an overlooked *New York American* story from October 29, 1919, by W.S. Farnsworth. It reported details about Arnold Rothstein's involvement in the fixing of the 1919 World Series and sheds new light on his collaboration with Abe Attell — and how much money they promised to pay off the Black Sox.¹

The article explained that Rothstein had been approached by a “former champion fighter” (unnamed in the story, but later understood to be Attell) and informed that for \$20,000 he could clean up a fortune by betting on the Cincinnati Reds. The scheme was to buy “a certain party” who could ensure the White Sox lost.

When confronted about his participation, Rothstein indicated that he spurned the deal and provided his own version of the proposition:

*I have heard rumors that I was mixed up in such a deal ... but it's a lie. I do not want to be called a 'copper,' but I feel that it is time for me to spike these reports and protect my reputation. A few days before the series opened, a man did come to me and say that he could buy a certain party for \$20,000, who would see that the White Sox would lose. I replied to him as follows: 'Get away from me, you rat: I don't believe you can do any such thing and even if you could I don't want anything to do with it.'*²

The man, however, was persistent and said: 'I am going to Cincinnati and if everything is all right I will send you a telegram.' Again I called the man a rat and told him to move along as I didn't want to be seen in his company. A night or two later, during dinner at home, the long-distance telephone operator called, saying that this former champion fighter wanted to talk to me from Cincinnati. I told my servant to say that I was not at home. This 'fixer' however must have informed the party that was to arrange the alleged deal whereby the White Sox would lose, that I had agreed to back the plan. For I have learned that he telephoned a friend here to rush him a telegram saying: 'Everything O.K.,' and signed my initials.

*Later he must have been told to get more assurance that I was in on the deal, for this same friend sent him another telegram, the wording of which I do not know, but which was signed 'A.R.'*³



Just weeks after the 1919 World Series ended, gambling kingpin Arnold Rothstein claimed he was approached by a “former champion fighter” to fix the Series for \$20,000. Later reports move the payoff total to \$100,000.

(Photo: Library of Congress / *New York World-Telegram*)

Rothstein further stated that the champion who implicated him in the deal was currently in Chicago, but was expected back in New York soon. “When he gets back I’ll make him tell the true story,” Rothstein said.⁴

Two days later, on October 31 in Chicago, Abe Attell responded to allegations from the *New York American* article. He said if he was the man referred to by Arnold Rothstein, he was not guilty. Attell said that he had not seen Rothstein for months and knew nothing of the story. He admitted to winning money, but he said his pick was made weeks before the World Series started.⁵

No further exchanges between Attell and Rothstein were reported publicly in 1919. However, the following year brought greater emphasis on investigating the crooked World Series and furthered discussion about participants and the money exchanged.

On September 7, 1920 a grand jury was empaneled in Chicago to investigate suspicious gambling activities surrounding a Cubs vs. Phillies game and its focus was quickly expanded to include the 1919 World Series.⁶ Subpoenas were sent out for American League president Ban Johnson and his NL counterpart John Heydler, White Sox owner Charles Comiskey, Cubs president William L. Veeck, as well as a host of Chicago sportswriters including James Crusinberry of the *Chicago Tribune*, and Bert E. Collyer and Frank O. Klein of *Collyer's Eye*.⁷

On September 22, the grand jury heard Crusinberry provide the most significant account of the fix, as his

➤ Continued on page 8

► PAYOFF

Continued from page 7

testimony included first-hand evidence of Abe Attell's New York barroom confession earlier that summer. Crusinberry and fellow sportswriter Ring Lardner were invited by White Sox manager Kid Gleason to eavesdrop on his conversation with a drunken Attell. In Crusinberry's words:

I testified for more than an hour. I told the jury of the incident with Attell and Gleason, and named Arnold Rothstein as the big gambler behind it. I told them that I had heard that Hal Chase, the ex-ballplayer who had been dropped from several clubs for his nefarious activities, conceived the plot to throw the Series and had conferred with Gandil as to which players they would dare approach.⁸

Crusinberry's statement squarely implicates Hal Chase as the originator of "the plot." Chase's involvement is further detailed by testimony of Chicago Cubs infielder Buck Herzog and New York Giants pitcher Rube Benton. On September 23, Herzog provided affidavits to the Cook County Grand Jury from Art Wilson and Tony Boeckel of the Boston Braves declaring that they heard Benton state he had won money on the 1919 World Series based upon a tip from Hal Chase.⁹

Benton testified later that day. He mentioned a Cincinnati betting commissioner named Philip Hahn, who had informed him that five White Sox players were paid \$100,000 by Pittsburgh gamblers for "throwing" the series to the Reds. Benton said:

Last fall after the series a man named Hahn, who hails from Cincinnati, and is known as a betting commissioner, visited me at my home in Clinton, North Carolina. One morning while we were out hunting I asked him about the World's Series. He said the series was not on the square. He said that the deal to fix players to throw the series to Cincinnati had been engineered by a syndicate of gamblers from Pittsburgh for whom he worked in Cincinnati as betting commissioner. He said certain White Sox had visited Pittsburgh before the series was played and made arrangements to throw the games for a price. He said that the players demanded \$100,000 to lay down so that the Sox would lose and this was paid them. ... They tell me around New York that Hal Chase won \$40,000 on the series. He must have won because he had plenty of money after the series ended.¹⁰

Most newspaper reports on September 25 and later make reference to the \$100,000 fix amount referenced by Rube Benton. However, the *Barre (Vermont) Daily Times* reported a different statement attributed to grand jury foreman Henry H. Brigham, under the subtitle "World Series Could be Bought in 1919 for \$20,000."

The *Times* reported:

Testimony sufficient to indict several baseball players and at least one or two well-known gamblers has been given to the grand jury investigating "fixing" of games according to H.H. Brigham, foreman of the jury.

'Through the testimony of one witness we stumbled onto evidence that left us dumbfounded,' he declared today. 'Naturally this evidence cannot be made public, for if the men whom it implicates realized what has been told the jury they would immediately cut off other sources of information. We know they have the power to do this.'

Evidence has been presented to the jury that ... a former baseball player approached a New York gambler in the Hotel Astor, New York, and told him the world series could be "bought" for \$20,000. The jury has not received any evidence, it is said, to show whether the gambler accepted or rejected the offer, but has been informed that the ball player won \$40,000 on the series.¹¹

Benton's testimony is the point in the grand jury investigations where historical discussion of the \$20,000 fix and the \$100,000 fix collide. It is also the point where discussion shifts from fixing the first two games of the series versus the whole series.¹² Finally, it is when the same discussions shift from Arnold Rothstein the fixer to a syndicate of fixers — which may or may not have included Rothstein.

This is further borne out by events of the following days. On September 27, fix insider Billy Maharg sat down with James C. Isaminger of the *Philadelphia North American*. Maharg informed Isaminger of his part in the \$100,000 plot. The story, published the next day, corroborated Benton's bribe amount but made no mention of Hal Chase. Maharg said the fix was suggested by Eddie Cicotte to him and Sleepy Bill Burns, a former White Sox pitcher. They were told by "some Philadelphia gamblers" that Arnold Rothstein alone could finance such a plot. So they approached Rothstein at the Hotel Astor where he turned them down flatly.

Abe Attell, through the use of fake telegrams, convinced Burns, Maharg, and the players that the fix had been financed by Rothstein. However, Attell did not come through with the full \$100,000. Maharg also confirmed rumors that multiple gambling syndicates may have been involved:

The whole upshot of the matter was that Attell and his gang cleaned up a fortune, and the Sox players were double-crossed out of \$90,000 that was coming to them. I heard that a new deal was made on the final game with St. Louis gamblers and that a member of the St. Louis American League team was the go-between, but I know nothing of that. Attell is the man the Chicago grand jury wants.¹³

The publishing of Maharg's story almost immediately led to confessions before the Cook County Grand Jury of White

► Continued on page 9

► PAYOFF

Continued from page 8

Sox players Eddie Cicotte, Joe Jackson, and Lefty Williams. Early reports of Cicotte's testimony concentrate on the \$10,000 he personally received. Cicotte also claimed Chick Gandil fixed the deal with Abe Attell and "three Pittsburgh gamblers agreed to back him."¹⁴

Jackson, in response to a question about the payments received, testified, "Well, Attell was supposed to give the \$100,000. It was to be split up, paid to him ..."¹⁵ Lefty Williams said he was informed by Gandil in Cincinnati that Abe Attell "was also fixing where we would get one hundred thousand dollars."¹⁶

White Sox center fielder Happy Felsch admitted his involvement to a *Chicago Evening American* reporter on September 30. Felsch said, "We never knew who double crossed us on the split of the \$100,000."¹⁷

These significant breaking stories forever changed the focus of the fix investigations and turned the spotlight away from the \$20,000 discussed by Rothstein and Attell in W.S. Farnsworth's *New York American* story from a year earlier. Even Rothstein began following the leading media discussions concerning the \$100,000 fix amount. In response to Maharg's allegations, an infuriated Attell blamed Rothstein for naming him in connection with it. Rothstein provided this statement through a relative:

*You can say that Maharg's story with regard to the meeting in the Hotel Astor is substantially correct. Arnold Rothstein was never in on the deal at any stage. He told me he was much surprised when the proposition was put up to him, and declared to Burns and the other man present that he didn't even think it could be done. ... A few days after he turned these fellows down Arnold was approached by Attell but again he refused to have anything to do with the proposition. Arnold never sent any telegrams to Attell at Cincinnati during the world series, and if Attell says that he received any money or telegrams from him at that time you can say that Arnold Rothstein says it's untrue. Why should he be sending telegrams when he didn't have a thing to do with the matter?*¹⁸

This bickering between Rothstein and Attell indicates that the two never got together to corroborate stories or that the two were not fully aware of all fix participation activi-

ties. However, the two would meet shortly after this September 29, 1920 exchange as Abe Attell hired attorney William J. Fallon to represent his interests. Fallon, who was intimately familiar with Arnold Rothstein, would soon initiate a meeting between these two fixers as well as Sport Sullivan to initiate a mutually beneficial plan.

W.S. Farnsworth's overlooked story provides evidence of the final plan proposed to Arnold Rothstein to interfere with the 1919 World Series. It is well documented that several

parties approached Arnold Rothstein to fund the entire \$100,000 World Series fix, but Rothstein turned them down. Who would risk \$100,000 to win \$200,000 to \$300,000 (plus their outside wagers) on a somewhat uncontrollable series?

In James Crusinberry's account, Hal Chase came up with the idea — and he also may have originated the suggestion that a pool of gamblers get together to contribute to the \$100,000 overall bribe. But that still required early payments to be put down. Someone was needed to provide the seed money to get the fix started.

Farnsworth's story indicates the plan to fund the first \$20,000 was offered to Rothstein by Attell. This was a plan more in keeping with Rothstein's risk-free nature. This only required that two White Sox pitchers agree to throw Games One and Two, and Rothstein could always place additional bets based upon intel from Attell through his direct line to Cincinnati. It would be up to Attell to carry the torch further.



How much money did Abe Attell ask Arnold Rothstein to put up in order to bribe the White Sox to throw the 1919 World Series?
(Photo: Chicago History Museum, *Chicago Daily News*, SDN-008974)

Notes

1. "Attempt Made to Have World Series Games Thrown: Who Tried to Throw Big Series," *Washington Herald*, October 31, 1919: 8. Story references the *New York American* story and author.

2. Ibid., with "Offered Bribe of \$20,000 to Throw World's Series," *Bridgeport (Connecticut) Times*, October 30, 1919: 10. The Bridgeport article provided additional Arnold Rothstein quotes from the original *New York American* article. They have been combined with the *Washington Herald* article quotes to provide proper credit as there was no reference of the original author, W.S. Farnsworth, in the Bridgeport article. Content from both articles are used because the actual *New York American* article could not be obtained.

3. The individual responsible for sending the telegrams was later identified as Curly Bennett by Detective Val O'Farrell. See Benny Kauff in "Fixing Plot, Says Detective,"

► Continued on page 10

Listen to highlights from Eight Myths Out events

The centennial anniversary of the 1919 World Series shined a bright spotlight on our Black Sox Scandal research, and committee members shared their insight about the scandal in events around the country in 2019.

Top: On June 27 at the SABR 49 convention in San Diego, Rick Huhn, Bill Felber, Bruce Allardice, and Jacob Pomrenke shed new light on the most common myths about the Black Sox Scandal. [Click here](#) to listen to highlights from their panel discussion.

Lower-left: On March 23 in Middletown, Connecticut, SABR's Smoky Joe Wood Chapter hosted a special Black Sox 100th anniversary event highlighted by a panel discussion with Jim Margalus, Pomrenke, and Bill Lamb. Listen to their conversation, moderated by Karl Cicitto, at bit.ly/2019-sabr-ct-black-sox-panel

Lower-right: On August 16 in Cincinnati, more than 125 baseball fans gathered at the historic Mercantile Library for a special event focusing on the 1919 World Series champion Reds with Greg Rhodes, Greg Gajus, Huhn, and Pomrenke. Rhodes brought a Jake Daubert bat on loan from the Reds Hall of Fame and Museum.

Committee members also gave Black Sox-related talks to SABR chapters in Chicago, Cleveland; Toledo, Ohio; Lexington, Kentucky; and Rochester, New York, this year.



► PAYOFF

Continued from page 9

New York Tribune, September 30, 1920. On October 2, 1920, *Collyer's Eye* reported that Bennett admitted to sending the telegrams without Arnold Rothstein's knowledge.

4. "Offered Bribe of \$20,000 to Throw World's Series," *Bridgeport (Connecticut) Times*, October 30, 1919: 10.

5. "Abe Attel (sic) Admits Winning on Reds," *Racine (Wisconsin) Journal-News*, October 31, 1919.

6. William F. Lamb, *Black Sox in the Courtroom: The Grand Jury, Criminal Trial, and Civil Litigation* (Jefferson, North Carolina: McFarland & Co., 2013), 31-33.

7. Lamb, 34. Collyer and Frank Klein may have been the same person. See Bruce Allardice, "Collyer's Eye's Ace Reporter: Who Was He?" *SABR Black Sox Scandal Research Committee Newsletter*, Vol. 8, No. 2, December 2016: 3-5.

8. Gene Carney, *Burying the Black Sox: How Baseball's Cover-Up of the 1919 World Series Fix Almost Succeeded* (Washington, DC: Potomac Books, 2006), 110-111.

9. "Offer of \$800 to 'Throw' Game," *Barre (Vermont) Daily Times*, September 23, 1920: 2.

10. "Declares Sox Are Crooked," *Atchison (Kansas) Daily Globe*, September 24, 1920: 3.

11. "Outstanding Evidence of Crookedness Found in Baseball Inquiry," *Barre (Vermont) Daily Times*, September

25, 1920: 1. This article suggests that testimony by the "one witness" was provided early in the day on September 25 or sooner. This led to Henry Brigham's statement and discussion. However, the paragraph providing discussion of the Hotel Astor and the \$20,000 bribe may not be attributed to Brigham as it is not in quotes. It is most likely a declaration by the unknown author of the story. The paragraph, as written, suggests that Hal Chase (ex-ballplayer who won \$40,000 on the series) met a New York gambler at the Hotel Astor. Verification of this meeting with Chase and Rothstein has not been confirmed. However, it is known that the ex-ballplayer Bill Burns met with Rothstein at the Astor. Regardless, the story provides evidence that discussions concerning the \$20,000 fix amount were still present on September 25, 1920.

12. Carney, 114.

13. *Philadelphia North American*, September 28, 1920.

14. "Eight White Sox Are Indicted; Cicotte and Jackson Confess Gamblers Paid Them \$15,000," *New York Tribune*, September 29, 1920: 2.

15. Harvey Frommer, *Shoeless Joe and Ragtime Baseball* (Dallas: Taylor Publishing Co., 1992): 197-198.

16. Douglas O. Linder, "The Black Sox Trial: An Account," Famous-Trials.com, accessed online at famous-trials.com/blacksox/943-home on December 1, 2019.

17. Lamb, 59.

18. "Attel Angry, Will Expose Series Plot," *New York Tribune*, September 29, 1920: 1.

White Sox, Yankees to take the *Field of Dreams*

“They’ll come to Iowa for reasons they can’t even fathom. They’ll turn up your driveway, not knowing for sure why they’re doing it. They’ll arrive at your door as innocent as children, longing for the past.” — Terence Mann



The Chicago White Sox and New York Yankees will play a regular-season game at the *Field of Dreams* movie site on August 13, 2020, in Dyersville, Iowa, three decades after the release of the film. (Photo: Field of Dreams Movie Site)

Major League Baseball is going the distance next summer when the Chicago White Sox and New York Yankees square off in the first regular-season game ever played in Iowa at the *Field of Dreams* movie site near Dyersville.

The beloved baseball film celebrated its 30th anniversary in 2019 and MLB will honor its legacy by building a temporary 8,000-seat ballpark in the cornfield and staging a nationally televised game there on August 13, 2020.

According to MLB.com, “The design of the ballpark in Dyersville, including the shape of the outfield and the bullpens, will pay homage to Comiskey Park. The right-field wall will include windows to show the cornfields beyond the ballpark, which will overlook the movie set.”

It will be Eloy Jiménez, not Shoeless Joe Jackson, coming out of the corn to play left field for the White Sox. The team’s connection to the film, thanks to Jackson’s role in the Black Sox Scandal, makes them a natural fit to participate in this game. But it’s unclear how much reference will be made to the scandal in the buildup or in the TV broadcast.

The *Field of Dreams* game is following the precedent of MLB games played at non-traditional sites, including the Little League Classic in Williamsport, Pennsylvania, and the MLB in Omaha game at the College World Series site.

Sporting News contract card collection now online

The [Sporting News Baseball Player Contract Cards Collection](#), an important primary source for information about the lives and careers of nearly 180,000 professional baseball players, was recently made available online at LA84.org, thanks to a collaboration between SABR and the LA84 Foundation.

These index cards, maintained over a 105-year period beginning in 1886 by clerks at the weekly sports newspaper *The Sporting News* (TSN), contain a record of each ballplayer’s basic demographic data and their contract status. Sometime in the early 1990s, the current player records were computerized and the index cards were no longer maintained. In addition to players, another 10,000 cards document umpires and team executives.

[Click here to view TSN contract cards for the eight Black Sox players](#)

It may be necessary to independently verify any information found on these cards — note the incorrect birthdate

and middle name on [Buck Weaver’s card](#) — but they can also provide new clues about a player’s career that are worth studying further. Corrections already have been made to Chick Gandil’s and Kid Gleason’s SABR biographies based on their TSN cards.

Two 1919 White Sox pitchers, [Grover Lowdermilk](#) and [Erskine Mayer](#), have notations that they were declared “ineligible” by Organized Baseball in the early 1930s. This is corroborated by a November 1933 Associated Press report which claims a whopping 246 players had been listed as ineligible since 1920. Does anyone know why Lowdermilk and

Mayer might have been included on the list? Both of their playing careers ended years earlier, and their SABR bios offer few details about this period of their lives.

A third White Sox pitcher, [Win Noyes](#), also has a note on his TSN card that says he was declared “ineligible” in 1925 — six years after his last appearance in Organized Baseball. Further exploration is needed.

<p>played under name of Arnold</p> <p>Name "Chick" Gandil</p> <p>Position 3B</p> <p>Born-Place Charles Arnold, Minn.</p> <p>Date Jan. 19, 1888</p> <p>Address Calistoga, California, U.S.A.</p> <p>Teams Played With</p> <p>Semi-Pro ball at Amarillo, Texas, and Ariz. 06-Semi-Pro Ball at Cannanea Shreveport 08-Draft. by St. Louis to Shreveport 5/09-jumped to Press left team at Sacramento before Ma Sacramento of Pacific Coast League Chicago Am. at close of 09 season 2/10-Rel. to Montreal 9/10-11-12-Traced for Cunningham, Becker, Akers and \$5,000 to Washington (over)</p>	<p>Name (Shoeless Joe) Jackson, Joseph Jefferson</p> <p>Position OF</p> <p>Bats L</p> <p>Throws R</p> <p>Married</p> <p>Date 7-16-1868</p> <p>Address 119 Wilburn Greenville, S. C.</p> <p>Height 6.00</p> <p>Weight 175</p> <p>Teams Played With</p> <p>Greenville, S.C. 1908-sold to Philadelphia AL 10/08-rel. to Savannah 09-rel. by Philadelphia AL and rel. to New Orleans 4/10-rel. to Cleveland 8/10-11-12-13-14-15-sold for \$15,000 and Players Roth, Klesper and Chappell to Chicago AL 8/20/15-16-17-18-19-20-Declared ineligible for part in World's Series scandal 9/20-jumped to shipyard in 1919 Philadelphia A's received Briscoe Lord and out-</p>	<p>Name "Knuckles" Cicotte, Edw. V.</p> <p>Position P</p> <p>Bats R</p> <p>Throws R</p> <p>Date June 19, 1891</p> <p>Address 31540 N. T. Mile Rd. Detroit Mich.</p> <p>Teams Played With</p> <p>R.I.S. Farmington, Michigan</p> <p>Detroit Mich. 1903-Sault Ste. Marie Mich. 1904-Detroit Mich. 1904-Detroit Mich. 1905-Detroit Mich. 1906-Detroit Mich. 1907-Detroit Mich. 1908-Detroit Mich. 1909-Detroit Mich. 1910-Detroit Mich. 1911-Detroit Mich. 1912-Detroit Mich. 1913-Detroit Mich. 1914-Detroit Mich. 1915-Detroit Mich. 1916-Detroit Mich. 1917-Detroit Mich. 1918-Detroit Mich. 1919-Detroit Mich. 1920-Detroit Mich. 1921-Detroit Mich. 1922-Detroit Mich. 1923-Detroit Mich. 1924-Detroit Mich. 1925-Detroit Mich. 1926-Detroit Mich. 1927-Detroit Mich. 1928-Detroit Mich. 1929-Detroit Mich. 1930-Detroit Mich. 1931-Detroit Mich. 1932-Detroit Mich. 1933-Detroit Mich. 1934-Detroit Mich. 1935-Detroit Mich. 1936-Detroit Mich. 1937-Detroit Mich. 1938-Detroit Mich. 1939-Detroit Mich. 1940-Detroit Mich. 1941-Detroit Mich. 1942-Detroit Mich. 1943-Detroit Mich. 1944-Detroit Mich. 1945-Detroit Mich. 1946-Detroit Mich. 1947-Detroit Mich. 1948-Detroit Mich. 1949-Detroit Mich. 1950-Detroit Mich. 1951-Detroit Mich. 1952-Detroit Mich. 1953-Detroit Mich. 1954-Detroit Mich. 1955-Detroit Mich. 1956-Detroit Mich. 1957-Detroit Mich. 1958-Detroit Mich. 1959-Detroit Mich. 1960-Detroit Mich. 1961-Detroit Mich. 1962-Detroit Mich. 1963-Detroit Mich. 1964-Detroit Mich. 1965-Detroit Mich. 1966-Detroit Mich. 1967-Detroit Mich. 1968-Detroit Mich. 1969-Detroit Mich. 1970-Detroit Mich. 1971-Detroit Mich. 1972-Detroit Mich. 1973-Detroit Mich. 1974-Detroit Mich. 1975-Detroit Mich. 1976-Detroit Mich. 1977-Detroit Mich. 1978-Detroit Mich. 1979-Detroit Mich. 1980-Detroit Mich. 1981-Detroit Mich. 1982-Detroit Mich. 1983-Detroit Mich. 1984-Detroit Mich. 1985-Detroit Mich. 1986-Detroit Mich. 1987-Detroit Mich. 1988-Detroit Mich. 1989-Detroit Mich. 1990-Detroit Mich. 1991-Detroit Mich. 1992-Detroit Mich. 1993-Detroit Mich. 1994-Detroit Mich. 1995-Detroit Mich. 1996-Detroit Mich. 1997-Detroit Mich. 1998-Detroit Mich. 1999-Detroit Mich. 2000-Detroit Mich. 2001-Detroit Mich. 2002-Detroit Mich. 2003-Detroit Mich. 2004-Detroit Mich. 2005-Detroit Mich. 2006-Detroit Mich. 2007-Detroit Mich. 2008-Detroit Mich. 2009-Detroit Mich. 2010-Detroit Mich. 2011-Detroit Mich. 2012-Detroit Mich. 2013-Detroit Mich. 2014-Detroit Mich. 2015-Detroit Mich. 2016-Detroit Mich. 2017-Detroit Mich. 2018-Detroit Mich. 2019-Detroit Mich. 2020-Detroit Mich.</p>
---	--	--

Did ‘just cause’ exist for Buck’s punishment?

By Robert Bergeson

robertbergesonarb@gmail.com

Would the lifetime ban imposed in 1921 on Chicago White Sox third baseman Buck Weaver have been upheld under an arbitration procedure such as the one that exists today? This article examines what kind of case could have been made for and against Weaver in an arbitration setting.

As is well known, certain players on the 1919 Chicago White Sox conspired with professional gamblers to throw the World Series, enabling gamblers in the know to reap huge profits by betting on the underdog Cincinnati Reds, who ultimately won five games to three.¹

The Black Sox players were suspended by owner Charles Comiskey just prior to the 1920 World Series and were later tried for having allegedly engaged in a criminal conspiracy to defraud Comiskey, the White Sox organization, their fellow teammates, and people who legally bet on the 1919 World Series. On August 3, 1921, immediately after the players were acquitted, commissioner Kenesaw Mountain Landis famously stated,

“Regardless of the verdict of juries, no player that throws a ball game; no player that undertakes or promises to throw a ball game; no player that sits in a conference with a bunch of crooked players and gamblers where the ways and means of throwing ball games are planned and discussed and does not promptly tell his club about it, will ever play professional baseball.”

It is universally agreed upon that the final portion of Landis’ comment was in reference to Buck Weaver.

The quoted comment (hereafter “Landis’ proclamation”), made without having spoken to the players himself, exuded what has also become a consensus that despite identical indictments brought against the Black Sox, the work-related improprieties they committed markedly differed.

But that distinction mattered not to Landis, who ruled that, absent immediate notification to management, merely sitting in on a meeting to discuss intentionally losing “a” or any game, regardless of its significance or whether the player actually committed to assist in losing it, should warrant the same punishment as for those who had received cash payments for intentionally playing beneath their ability: a permanent ban from Organized Baseball.

Unionization of MLB Players

For many decades, the standard individual player contract contained a provision which prohibited movement from club to club unless they first sat out an entire



A modern ballplayer facing the same lifetime ban as Buck Weaver in the Black Sox Scandal might be able to appeal for an arbitration hearing. (Photo: Chicago History Museum, *Chicago Daily News*, SDN-058688)

season. Frustrated with continued existence of that “reserve clause,” in 1966 the Major League Baseball Players Association, which had been created 13 years before, decided to restructure itself into a true union so as to avail itself of federal law to facilitate a change.

That change, and a concurrent hiring of longtime Steelworkers Union representative Marvin Miller as executive director, allowed the MLBPA to eventually negotiate a collective bargaining agreement (CBA) containing a “grievance” procedure providing for the right of appeal to an arbitrator or arbitrators with final and binding authority. Among grievable subjects under that CBA, now formally referred to as the Basic Agreement, are disciplinary actions taken against MLB players.²

What would such a disciplinary grievance arbitration held in late 1921 have looked like? Although a century later we cannot be sure, Buck Weaver’s lifetime termination from MLB can nevertheless be analyzed in a generic sense and from a modern context to draw conclusions.

Arbitration of Buck Weaver’s Banishment

Although considerably less formal, in various ways labor arbitration hearings mirror trials in a court of law. As with the prosecution in criminal court, in disciplinary arbitrations the burden of proof lies with the moving party, i.e., the employer.

Also similar is that, as with the Black Sox’s criminal

► Continued on page 13

► PUNISHMENT

Continued from page 12

trial, cases involving multiple “grievants” are often consolidated where they contain a commonality of events and allegations. Had an MLB arbitration system been in place in 1921, it is possible that, for purposes of expediency, counsel for MLB and the players union would have agreed to have all appeals heard simultaneously as opposed to each being adjudicated separately.

Even had a grievance by Weaver been consolidated with that of the other six likely grievants, arbitral assessment of the propriety of his termination would have been distinct from the others since the charge leveled against Weaver — “not telling his club about it” — was less severe than the allegation(s) made against the other Black Sox.³

Whether or not grievances of Weaver and the other Black Sox would have been heard as a group, the issue can be assumed to have been what has long been typical in labor arbitration: whether “just cause” existed for the lifetime ban imposed and, if not, what remedy should be awarded.

Generically speaking, in the absence of an agreement on relevant events, the just cause standard requires management to prove facts underpinning one or more contentions of misconduct and to persuade the arbitrator(s) that the discipline imposed was appropriate. Considering that Weaver never denied he participated in multiple meetings at which throwing the 1919 Series was discussed, MLB’s case would have been less about the determination of relevant facts than about whether, based on Weaver’s attendance at those meetings, a lifetime ban was justified.⁴

Indeed, it is conceivable that, as sometimes occurs in arbitration, given Weaver’s tacit admission, had an arbitration appeal procedure then existed, counsel for MLB may have moved for “denial” of Weaver’s grievance solely on the basis that his so doing warranted “summary” discharge. In other words, management may have relied on the principle which has been established over decades of arbitration that some infractions are so serious as to warrant termination in and of themselves without regard to other factors.

Where such offenses have been agreed upon by a union and employer and communicated to employees and a grievant admits to culpability, in the absence of a very persuasive

defense, the case may end then and there. However, not only was there no such union-management agreement in 1921, no evidence exists of a unilaterally created rule supporting Weaver’s permanent banishment.

In the absence of an explicit rule, arbitrators have often looked to the criminal law for guidance in deciding what conduct may be so heinous as to amount to *de facto* notice of its impropriety. In other words, where the employee’s conduct is in the nature of a common law felony, his or her

act will generally be determined to be appropriate for summary termination on the theory that any reasonable employee would know such conduct to be similarly intolerable in an industrial setting. Although the Black Sox were indicted on charges of a criminal conspiracy, under the common law of most states a conviction of conspiracy requires not merely planning an underlying crime, but some overt act in furtherance of it — at a minimum, a pledge to commit the underlying crime.⁵ However, Illinois was an exception.

Citing the criminal case against the players, in his autobiography, Marvin Miller stated “[W]e’ll never know how many of the Sox were punished unjustly when they were banned from baseball for life *after* being *cleared* of charges in a court ... nor will we know to what degree the tight-fisted, mean-spirited and questionable tactics of the Chicago owner, Charles Comiskey, contributed to the condition that made the players susceptible to gamblers.”⁶

Although sources more objective than Miller explicate reasons to think Buck Weaver was treated unfairly by Judge Landis, for the most part Miller’s argument does not so persuade.

Recently, Comiskey’s alleged tight-fistedness and the assertion he was mean-spirited have been largely refuted.⁷ As to the players’ acquittal of the criminal charges against them, in arbitration that would have been of minimal significance at best.

Under criminal law, the “quantum” (or amount) of evidence required of the prosecution is beyond a reasonable doubt. In contrast, in arbitration the quantum of proof required is typically the same as under civil procedure: preponderance of the evidence, or what is more likely than not. As such, a not-guilty verdict in criminal court does not prevent an employer from thereafter proving commission of the allegedly improper act in arbitration as justification for discipline taken.⁸ Nevertheless, it is highly unlikely

► Continued on page 14



If Wisconsin attorney Raymond Cannon's short-lived players union had succeeded in the 1920s, the Black Sox players might have had more legal options available to them for reinstatement. (Photo: *Madison Capital Times*, February 29, 1928)

► PUNISHMENT

Continued from page 13

Organized Baseball could have convinced a single arbitrator or panel of arbitrators to deny Weaver's appeal without a full-blown hearing.

In the absence of an explicit existing rule, published arbitration awards involving other union-management relationships can be persuasive to the adjudicator(s). However, this writer's research has failed to disclose any accepted approach to dealing with the malfeasance of which Buck Weaver was charged. The explanation is presumably that such cases so rarely arise.

For the most part, related cases have involved appeal of discipline imposed on employees for having allegedly refused to cooperate with their employer's investigation of possible misconduct by a co-worker. But rather than such a *refusal to act*, Weaver *omitted to act*. Generally, a refusal to act constitutes insubordination and, if done in direct rejection of an order, can be a dischargeable offense *per se*.⁹ However, Buck Weaver did not refuse to comply with an order directly made even if it could be said he somehow indirectly did so.

Denial of due process and Landis' *ex post facto* rule

Since employers present their case first in discipline arbitrations, a common protocol is to call to the witness stand the official who made the contested decision. Buck Weaver admitted to the action which formed the basis of his lifetime ban, so MLB would not have needed to produce evidence about that. However, Landis would have been asked to testify as to why he decided such action by Weaver justified the harsh result imposed.

One can easily imagine Landis saying nothing more than a repetition of his famous proclamation during "direct" examination by counsel for Organized Baseball. However, part and parcel of even administrative litigation such as arbitration is an opportunity for cross-examination by the opposing party.

In that regard, competent union counsel would have asked Landis to explain why Weaver's coming to White Sox management immediately after attendance at a World Series-throwing meeting would have mattered. Landis would have presumably answered that had Weaver done so, legitimacy of the Series could have been saved. As discussed below, such an answer would have opened the door to a predictable attack from the union.

Landis and MLB would also likely have asserted in arbitration the commissioner's need to assure the public that their business was on the up and up. Because it was "America's game" (to quote Landis), baseball was a form of entertainment to which a man could bring his wife and children.¹⁰ Landis would assuredly have testified that, as the decision maker, he needed to deal harshly with each of

the Black Sox so as to maintain public confidence in the integrity of the "game."¹¹

Landis would have been asked about the suggestion within his proclamation that Weaver could have mitigated his malfeasance, if not perhaps exonerated himself, had he immediately informed management of discussions of a fix. Although such Landis positions could conceivably have been persuasive under different circumstances, that cannot be said about late September 1919 when the planning meetings occurred and early October 1919 when the World Series took place.

In a generic sense, the average employer can benefit from immediate knowledge of planned misconduct by its workers. However, a review of the facts casts considerable doubt about whether that would have been true in the Weaver case.¹²

Underpinning any implication that the legitimacy of the World Series could have been redeemed by Weaver bringing to light his teammates' plans are two erroneous assumptions that ignore facts which a MLB players union would likely have brought out in arbitration. One such assumption is that Charles Comiskey had no inkling that any of his players had discussed throwing the World Series. The second is that had Comiskey been so aware, management's best efforts would have been made to stop the fix.

Comiskey's knowledge of the fix has been well documented in recent years. While it can be concluded that White Sox management was probably unaware of the plot prior to commencement of the Series, they had certainly gotten word of it by the end of Game One and heard multiple rumors no later than on the train from Cincinnati to Chicago following Game Two. Nevertheless, upon hearing about a possible fix, for weeks Comiskey did nothing more than call National League president John Heydler.¹³

Until January 1921 when Landis was appointed to the position, Organized Baseball had no commissioner and was instead headed by a National Commission composed of Heydler, American League president Ban Johnson, and a third person, who in the fall of 1919 was coincidentally Garry Herrmann, owner of the Reds.

Heydler always had a *laissez faire* approach to suspected lack of effort by players known to cavort with gamblers, as evidenced by his actions in the case of Cincinnati Reds first baseman Hal Chase. As Sean Deveney reported in *The Original Curse*: "[T]he grand jury's investigation did bring to light earlier accusations that ... Chase had offered \$800 to pitcher Rube Benton to lose a game in 1919, an accusation which had been brought to ... Heydler ... and covered up."¹⁴ Indeed, during such testimony, Heydler virtually admitted as much saying, "I am not in a humor to say any game is fixed or isn't fixed. ... I've heard so much about crookedness in baseball in the last year that I wouldn't say anything anymore but I am in favor of running down to the end every rumor of crookedness from now on ..."¹⁵

During Chase's impressive but tainted career, his

► Continued on page 15

► PUNISHMENT

Continued from page 14

frequent failure to give anywhere near his best effort was infamous. In 1918, Reds manager Christy Mathewson concluded that Chase had been gambling on his team's games. On August 6 of that year, John Tener, formerly a professional ballplayer and governor of Pennsylvania, resigned as NL president. In stepping down from the position, Tener was reported to have complained about months of disagreement with Heydler — his eventual replacement — and Herrmann over the reserve clause and the National Commission's failure to address MLB's gambling problems.¹⁶

Mathewson's subsequent complaints to Heydler about Chase fell on the new NL president's deaf ears and on February 5, 1919, Heydler cleared Chase of any wrongdoing. Having been given a green light to resume his misconduct, Chase moved on to the New York Giants and continued offering bribes to teammates and opponents to fix games during the 1919 season.¹⁷

Particularly salient to the present discussion is testimony proffered by Heydler while on the witness stand in breach of contract suits filed in 1922 by a few Black Sox players against Comiskey and the White Sox organization. When informed by Comiskey during the World Series of suspicions that a fix might be in the works, Heydler testified, he immediately called Ban Johnson and the two decided the best means of investigating such a rumor would be initiation of a slander lawsuit in the event a newspaper article were to be published about it.¹⁸

Two months after the 1919 World Series, highly respected baseball writer Hugh Fullerton and Bert Collyer, publisher of the Chicago-based gambling trade publication *Collyer's Eye*, began publishing a series of articles about a likely fix, thereby doing exactly what Heydler testified he and Johnson had decided should compel immediate legal action on their part. Nevertheless, history records no such lawsuit from December 1919 until Landis became commissioner 13 months later.

Although Johnson reputedly conducted a personal investigation, he asserted an inability to get anyone to speak with him about the fix, stating, "I have heard rumors myself, but have been unable to learn anything definite as to the identity of the men who are alleged to have approached ball players. If any men in our league are guilty of dishonesty, they should be barred from baseball forever."¹⁹

White Sox secretary Harry Grabiner's journal, portions of which appeared years later in Bill Veeck's *The Hustler's Handbook*, indicated that although Charles Comiskey supported the idea of a commissioner, he did not support Kenesaw Mountain Landis for the job, likely because of animus toward Ban Johnson, who wanted Landis.²⁰

Could the punishment imposed on Buck Weaver have been in part a *quid pro quo* for Johnson pushing through Landis's hiring? A union as savvy as the MLBPA would

surely have raised that question in arbitration and even though no evidence exists that Buck Weaver was ever "dishonest" about his involvement in the scandal, the penalty imposed upon him was identical to that advocated by Johnson for "any men in [the American] league" found to have been "approached" by gamblers.²¹

Thus, the National Commission in the persons of Heydler and Herrmann did nothing to put a stop to the possible fix during the World Series. Similarly, in *The Hustler's Handbook*, Veeck wrote, "It is noted that there is one thing neither Harry [Grabiner] nor anybody on the White Sox [staff] ever bothered to do. They never called in the players to warn them they were being watched nor did they direct the manager to warn them."²²

Accordingly Heydler and Herrmann conducted nothing in the way of an investigation after the fact and instead left it up to Johnson to simply ask around on his own. As such, the triad from whom Landis assumed the reins of Organized Baseball collectively conducted at best a slipshod investigation of the fact. Although Comiskey later offered a \$10,000 reward for relevant information and hired a private investigation firm, it is generally believed he did so only for public relations reasons.²³ There is no reason to think that had Weaver immediately "squealed," his doing so may have salvaged the integrity of the 1919 World Series as implied in Landis's proclamation.

Granted, Landis cannot be personally blamed for the lack of diligence of his predecessors. Nevertheless, under common law theories of agency, he inherited their passivity about the problem of gambling and, as such, could not properly have ignored it to the detriment of Buck Weaver. Although it may have been known by the Black Sox that their employer frowned upon consorting with gamblers, it was also known that when players were caught doing so, the penalty imposed was at most a slap on the wrist. Had such facts come into an arbitration record, they would potentially have been very detrimental to MLB's case against Weaver.

Even assuming existence of a rule created bilaterally by union and management which would have allowed for summary termination for simply discussing the throwing of games and even if that rule had been loosely enforced, Landis need not have accepted in perpetuity such spotty-at-best enforcement in perpetuity.²⁴ Nevertheless, that principle would not have insulated the commissioner from a finding of absence of just cause for Buck Weaver's termination.

Arbitrators have long thought that when an existing rule or policy has gone unenforced, an employer may not properly discipline employees for violating it without first notifying them the lax enforcement has ended. Because Landis did no such thing, he not only imposed upon Weaver an inappropriate *ex post facto* policy, he arguably subjected the third baseman to what has come to be known as "disparate treatment" from that applied to similarly situated players. On both bases, an arbitrator or arbitrators confronted with

► Continued on page 16

► PUNISHMENT

Continued from page 15

such a contention by Weaver's union would likely have found some violation of the just cause standard.

Broadly speaking, Weaver's union would undoubtedly also have asserted a denial of due process in the absence of an objective investigation by the commissioner.²⁵ Specifically, it would have been argued that Landis prejudged Weaver's guilt while not allowing the third baseman an opportunity to explain his actions prior to imposition of the harshest of conceivable penalties. Given the above, there can be little doubt such a contention would also have been found persuasive in arbitration.

Reasonableness of the Lifetime Ban

In sum, Kenesaw Mountain Landis' lifetime ban appears to have wrongly subjected Buck Weaver to disparate treatment, appears to have been based on a vague and largely unenforced rule, denied Weaver procedural due process, and was grounded on a rationale inapplicable to the facts of the case. Could the lifetime ban nevertheless be justified?

There can be no doubt that Landis's swift handling of the Black Sox matter played a large role in ending baseball's string of gambling-related problems before he became commissioner. Be that as it may, arbitrators reviewing disciplinary actions are guided not by events occurring after the fact but by those existing at the time of administration of the challenged discipline. Therefore, such hindsight is irrelevant and it is difficult to fathom that, in the absence of testimony from "percipient" witnesses to meetings attended by Weaver, the penalty imposed upon him could have survived modern arbitral scrutiny.

Given the number of potential witnesses in arbitration — some of the Black Sox as well as certain gamblers and others whose hearsay testimony would have been admissible in arbitration to corroborate direct evidence — analysis of the record and the determination of the credibility of such evidence is best left for a future article. That article may potentially tie up loose ends to determine whether Weaver's apparent denial of procedural due process may have warranted reduction of the lifetime ban to lesser discipline or no discipline whatsoever.

Robert Bergeson served for a total of 25 years as a Regional Director for the California Public Employment Relations Board and as Executive Director of the City of Los Angeles Employee Relations Board. He is now entirely self-employed as a labor arbitrator and has been admitted to the National Academy of Arbitrators, the most prestigious honorary organization in the field.

Sources

Brand, Norman and Biren, Melissa H., eds., *Discipline*

and *Discharge in Arbitration* (Washington, DC: Bureau of National Affairs, 2nd ed., 2008).

Carney, Gene, *Burying the Black Sox: How Baseball's Cover-Up of the 1919 World Series Fix Almost Succeeded* (Washington, DC: Potomac Books, 2006).

Deveney, Sean, *The Original Curse: Did the Cubs Throw the 1918 World Series to Babe Ruth's Red Sox and Incite the Black Sox Scandal?* (New York: McGraw-Hill, 2010).

Dewey, Donald and Acocella, Nicholas, *The Black Prince of Baseball: Hal Chase and the Mythology of the Game* (Wilmington, Delaware: Sport Classic Books, 2004).

Elkouri, Edna and Elkouri, Frank, *How Arbitration Works* (Washington, DC: Bureau of National Affairs, 7th ed., 2012).

Fountain, Charles, *The Betrayal: The 1919 World Series and the Birth of Modern Baseball* (New York: Oxford University Press, 2016).

Hill, Marvin and Sinicropi, Anthony, *Remedies in Arbitration* (Washington, DC: Bureau of National Affairs, 1981).

Hornbaker, Tim, *Turning the Black Sox White: The Misunderstood Legacy of Charles Comiskey* (New York: Sports Publishing, 2014).

Koven, Adolph and Smith, Susan, eds., *Just Cause: The Seven Tests* (Washington, DC: Bureau of National Affairs, 2nd ed., 1992).

Lamb, William F., *Black Sox in the Courtroom: The Grand Jury, Criminal Trial and Civil Litigation* (Jefferson, North Carolina: McFarland & Co., 2013).

Lieb, Frederick G., *The Story of the World Series* (New York: Putnam and Sons, 1949).

Miller, Marvin, *A Whole Different Ball Game: The Sport and Business of Baseball* (New York: Carroll Publishing Group, 1991).

Murdock, Eugene C., *Ban Johnson: Czar of Baseball* (Westport, Connecticut: Greenwood Press, 1982).

Pietrusza, David, *Judge and Jury: The Life and Times of Judge Kenesaw Mountain Landis* (South Bend, Indiana: Diamond Communications, 1998).

Roberts, Harold S., *Roberts' Dictionary of Industrial Relations* (Washington, DC: Bureau of National Affairs, 4th ed., 1994).

Schoonhoven, Ray J., ed., *Fairweather's Practice and Procedure in Labor Arbitration* (Washington, DC: Bureau of National Affairs, 3rd ed., 1991).

Veck, Bill, *The Hustler's Handbook* (New York: G.P. Putnam's Sons, 1965).

Notes

1. In 1919, what would later be called Major League Baseball was referred to as Organized Baseball. The two terms will be used interchangeably hereafter.

2. Although from a technical standpoint "discipline"

► Continued on page 17

► PUNISHMENT

Continued from page 16

encompasses actions short of discharge from employment, the quoted term will be used hereafter to encompass all forms of penalization for misconduct. The discipline process is to be distinguished from “salary arbitration” under which players with several years at the major league level but insufficient tenure to have gained “free agent” status are able to submit salary disputes for the upcoming season to a panel of arbitrators.

3. First baseman Chick Gandil retired from baseball prior to the 1920 regular season so he would not have been among the grievants.

4. Weaver’s probable presence at the two meetings was potentially much less damning to his case than his purported attendance at a third players meeting which it is unclear he ever expressly denied but to which he also never admitted.

5. See, e.g., Lamb, *Black Sox in the Courtroom*, 101.

6. Miller’s emphases. *A Whole Different Ball Game*, 215 and 404-405.

7. Penuriousness of owner Comiskey was asserted in the book and film entitled *Eight Men Out* as the main basis for the fix. However, as indicated in SABR’s “Eight Myths Out” project at sabr.org/eight-myths-out, a close review of the facts indicates “The White Sox had one of the highest payrolls in baseball and most players were *paid better* than their peers in the American League.”

8. A prime example is that former Heisman Trophy winner and NFL MVP O.J. Simpson’s acquittal of criminal charges in the murder of his ex-wife and her friend did not prevent the decedents’ families from proving their death at Simpson’s hands in a subsequent civil trial. The not-guilty verdict in the Black Sox criminal trial would also have been of no significance in a subsequent arbitration because of the prosecution’s need to prove not only conniving discussions but an intent to defraud. Labor arbitration being a less formal process, although arbitrators may be influenced by the criminal law, employers are not necessarily expected to establish all elements of a related crime in order to meet their burden of proving violation of a rule. The criminal verdict could have been based solely on insufficient evidence of an intent to defraud and that accusation was never leveled against Weaver.

9. See, generally, *Roberts’ Dictionary of Industrial Relations* at p. 349, citing, inter alia, *Kay-Brunner Steel Products* (Gentile, 1982) 78 Labor Arbitration Reports 363.

10. The reader’s patience is requested regarding use of such misogynistic language. Life immediately following World War I differed considerably from 21st century America, particularly in Chicago at the dawn of the Roaring Twenties. As such, it was common for gambling wagers to be made with impunity by fans sitting in the stands during ballgames.

11. In 1922, the US Supreme Court would designate all of Organized Baseball a “game” and therefore exempt from the Sherman Antitrust Act.

12. Granted, factual conclusions reached in such publications tend to be based largely upon hearsay. Although hearsay is generally admissible in arbitration unless subject to one of the exceptions to the hearsay rule under civil procedure, it may generally be used only to corroborate such direct evidence as the testimony of witnesses with personal knowledge of an event. Given the death of all such witnesses, the authors of those publications were compelled to make their findings on such more reliable, albeit limited, evidence as business records.

13. Although the White Sox were in the American League rather than the National League, Comiskey had been feuding with Ban Johnson and, frankly put, he “had no confidence in Johnson.” See Lamb, *Black Sox in the Courtroom*, 41.

14. Deveney, *The Original Curse*, 107.

15. Dewey and Acocella, *The Black Prince of Baseball*, 279-281.

16. *Ibid.*

17. Deveney, *The Original Curse*, 107.

18. *Ibid.*, 108.

19. Hornbaker, *Turning the Black Sox White*, 288.

20. For more on the story behind Harry Grabiner’s diary and *The Hustler’s Handbook*, see David Fletcher and Paul Duffy, “Harry’s Diary: The Elusive Missing Link,” *SABR Black Sox Scandal Committee Newsletter*, December 2012.

21. Hornbaker, *Turning the Black Sox White*, 288.

22. Veeck, *The Hustler’s Handbook*, 259.

23. See Gene Carney, “Comiskey’s Detectives,” *SABR Baseball Research Journal*, Fall 2019. Detective John Hunter once said the amount spent on the investigation was less than half what Comiskey had stated publicly.

24. As to a specific written document, Organized Baseball had apparently promulgated nothing which prohibited players from discussing the throwing of games. Accordingly, Buck Weaver violated not a formal “rule” but, at most, an erratically enforced “policy.” Consistent with constitutional principles of vagueness, a finding of ambiguity of existing policies allegedly violated can result in arbitral overturning of disciplinary actions.

25. Since the mid-1960s there has existed what the arbitrator who created them called the “Seven Tests,” or questions, which purportedly comprise the essence of just cause. Although some of that arbitrator’s thinking has since been debunked, much of it is still considered fundamental. The following quotation from a published award expresses its essence: “A thread which runs through the numerous decisions [underpinning just cause] is the concept that the [employer] make a full, fair and objective investigation ...” *Dow Chemical Co.* (Gentile, 1973) 60 Labor Arbitration Reports 703, 706-707 as quoted at p. 159 of *Just Cause: The Seven Tests*.

Judge Landis and baseball's ban hammer

By Bruce Allardice

bsa1861@att.net

After the Black Sox players were exposed for fixing the 1919 World Series, they received punishment for their misdeeds from two different bodies.

The first punishment was from their own team, the Chicago White Sox. In late September 1920, team owner Charles Comiskey, confronted with grand jury testimony of the fix, invoked his powers under the standard American League player contract to indefinitely suspend his accused players.

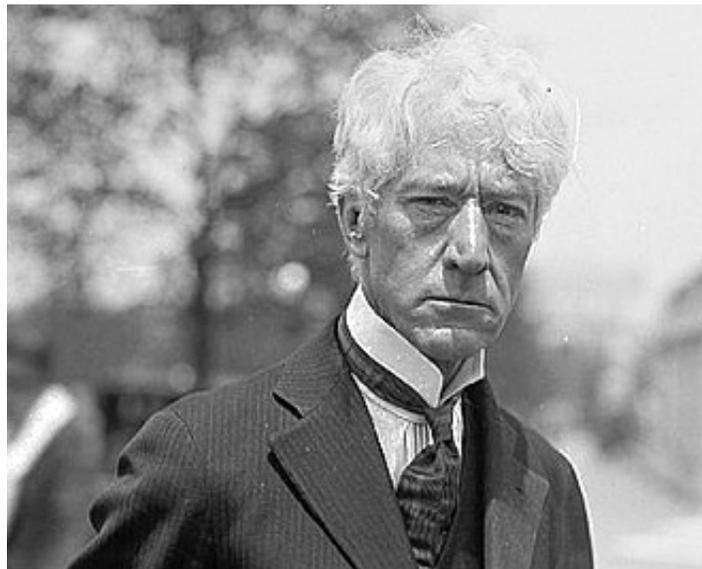
Section 3 of that contract, which all the players signed, had the players vowing (in return for their salary) "to render for the club owner ... his best services as a ball player." Failure to render such "best services" was a "breach of contract" which allowed the club owner to either suspend the player or terminate his contract.¹ Since the American League Constitution mandated the expulsion of any franchise that failed to terminate players who conspired to throw games, Comiskey had no choice but to suspend his players after they testified to the grand jury.² The White Sox played the remainder of the 1920 season without these eight players.

The second punishment came immediately after the conclusion of their 1921 criminal trial in Chicago. Within 24 hours of the "not guilty" verdict, baseball commissioner Kenesaw Mountain Landis issued his now-famous edict: "Regardless of the verdict of juries, no player that throws a ball game, no player that entertains proposals or promises to throw a game, no player that sits in a conference with a bunch of crooked players and gamblers where the ways and means of throwing games are discussed and does not promptly tell his club about it, will ever again play professional baseball."³

Comiskey's action has not attracted much historical comment or criticism, being subsumed by the more sensational trial and Landis's edict that followed. This article will focus on Landis's actions — specifically, his ban of White Sox third baseman Buck Weaver, the obvious target of the "does not promptly tell his club" clause above.

Author David Pietrusza is one of several historians who have accused Landis of rewriting Organized Baseball's rules to cover the conduct of Weaver, who sat in on the conspiracy meetings but — as far as can be determined — accepted no money and played the 1919 World Series on the level. Landis's decision to ban Weaver, Pietrusza wrote, "was to *ex post facto* place guilty knowledge of crooked play on the same level as the deed itself. Landis ratcheted baseball's moral code up several notches, making it akin to West Point's Code of Honor."⁴

What was the legal, or even quasi-legal, justification for Landis's edict? Regardless of the wisdom of the edict,



To punish Buck Weaver, Judge Kenesaw Mountain Landis was not inventing a new rule *ex post facto*, but rather enforcing an existing rule in a manner consistent with legal principles. (Photo: Library of Congress)

regardless of whether the punishment was too great or too small, did Landis actually possess the authority in 1921 to ban Weaver's 1919 conduct? And if so, did Weaver's actions violate baseball's 1919 rules?

Surprisingly little has been written about the Black Sox and the baseball rulebook. This article hopes to correct that omission.

The relevant 1919 rule, which notorious game-fixer Hal Chase was also charged with violating, was Section 40.

Crookedness and Its Penalties

Sec. 40. Any person who shall be proven guilty of offering, agreeing, conspiring or attempting to cause any game of ball to result otherwise than on its merits under the playing rules shall be forever disqualified by the President of the League from acting as umpire, manager, player, or in any other capacity in any game of ball participated in by a League Club. ...⁵

The "proven guilty" clause here refers not to any finding in a court of law, but rather to a finding of guilt by the National Commission, baseball's ruling body. Baseball's rules make no reference to court proceedings, and baseball's uniform practice had been to determine guilt via its own inquiry.⁶ In the courtroom, the jury's controversial decision to acquit the players rested on charges of legal conspiracy. But the jury could not address, let alone rule on, violations of *baseball's* rules. By 1921, after Landis was hired as

► Continued on page 19

► LANDIS

Continued from page 18

commissioner to replace the National Commission, he had the ultimate authority to make his own judgment of “proven guilty” in respect to Section 40.

From the naïve Shoeless Joe Jackson to fix instigator Chick Gandil, it is clear the Black Sox players’ actions violated Section 40 and that baseball’s rules allowed for a lifetime ban of them all. The players’ testimony showed they participated in meetings to play various World Series games “otherwise than on their merits” and accepted bribes from gamblers to do so.⁷

Section 40 gave the American League and National League presidents the power to “forever disqualify” (i.e., ban for life) any player who violated this rule. When Judge Landis took over as commissioner, he was given ill-defined but expansive powers over the game. Landis himself described his powers as “absolute.”⁸ At a minimum, he would possess the same powers that the “President of the League” possessed in 1919.⁹

Even if Landis’s edict is considered arbitrary, it must be remembered that the 1921 Major League Constitution, Art. 2, Sec. 3, had given him arbitrary powers. His edict also followed the relevant precedent of the 1919 Pacific Coast League game-fixing scandal, in which the PCL banished the indicted players even though the criminal charges against the players had been dismissed in court.¹⁰

It is the “Eighth Man Out,” Buck Weaver, whose punishment has attracted the most attention — and the most criticism. The facts of Weaver’s involvement in the scandal are in some dispute. For purposes of this article, I will posit that while he attended the conspiracy meetings with the other seven players, he ultimately decided to play on the up-and-up and did not accept any bribe money.

This scenario is about as favorable to Weaver’s case as can be. It ignores contemporary newspaper articles that claim Weaver threw games in 1920 and that report Weaver declined to join the fix only because the gamblers didn’t meet his price (\$20,000 in advance).¹¹

Judge Landis sensed the only way to restore fan respect for baseball, and to deter future misconduct, was to make an example of the players tainted by the Black Sox Scandal. That included Weaver, regardless of his play on the field. The final clause in Landis’s edict — “No player that sits in a conference with a bunch of crooked players and gamblers ... and does not promptly tell his club about it” — pointedly referred to Weaver.

Landis’ edict banning Buck Weaver for life can be justified under Section 40 and relevant legal principles. The general legal definition of “conspiracy” is clear enough, and does not require actual completion of the illegal act:

“A conspiracy occurs where two or more people agree to commit an illegal act and take some step toward its

completion. Conspiracy is an inchoate crime because it does not require that the illegal act actually have been completed.”¹²

Under Illinois law¹³ as it existed in 1919, a conspiracy in that state was complete upon the mere agreement to commit the unlawful act. No unlawful act was required. As explained by author Bill Lamb and others, one main legal problem with the Black Sox prosecution was that it wasn’t unlawful in Illinois to accept money for throwing a ball-game. The prosecution thus had to charge the players with conspiring to defraud the public instead.¹⁴

Under baseball’s rules, any conspiracy to throw a game could result in the conspirators being banned for life. The act of game-fixing is analogous to the “illegal object” of the conspiracy mentioned in the legal definition. While Illinois law didn’t make game-fixing illegal, baseball’s rules did specifically ban it. Thus the “conspiring” clause of Section 40 could validly be read, under legal principles, as making participation in the Black Sox conspiracy grounds to ban a player for life. And there is ample evidence that, initially at least, Weaver was an active participant in the fix.¹⁵

In some states, the law also provides a defense to a charge of conspiracy — withdrawal. Many Weaver defenders make what is essentially a claim that by playing honestly, he withdrew from the conspiracy. Legally, a defendant charged with conspiracy is allowed to raise the defense of withdrawal. In order to do so, a defendant must show 1) that he affirmatively communicated his withdrawal to his co-conspirators; 2) took some positive action to withdraw from the conspiracy; and 3) alternatively, that the conspirator must also alert the authorities.¹⁶ In a 2013 case, the US Supreme Court held that the burden of proof of withdrawal is on the defendant.¹⁷

It should again be emphasized that under baseball’s rules and Illinois law, Weaver could be banned based solely on his participation in the conspiracy meetings. Withdrawal would not be a defense to that action.

In addition, Judge Landis was not bound by the legal definitions of withdrawal, or to even consider withdrawal as a defense, under baseball’s rules. Even if the legal concept of withdrawal was applied here, Landis’s edict on Weaver still could be justified under the legal definitions of withdrawal.

Under the narrowest definition, Weaver didn’t clearly communicate his withdrawal to his co-conspirators. Indeed, the evidence suggests that going into Game One of the World Series, the other conspirators were unsure whether Weaver would play honestly or not. Joe Jackson, for one, testified that he thought Weaver “was in on the deal.”¹⁸ Under the more expansive definition, Weaver had an affirmative duty to disclose the conspiracy to the authorities — in this instance, White Sox team management — and his failure to notify means he could not use that defense.

► Continued on page 20

► LANDIS

Continued from page 19

If employees in any business conspire to defraud the business owner, common sense dictates that the business owner has the right to fire said employees. The actions of Charles Comiskey and Commissioner Landis in punishing the Black Sox appear to have exercised that common sense — and the move was approved in the court of public opinion.

In Buck Weaver's case, Landis was not inventing a new rule *ex post facto*, but rather enforcing an existing rule in a manner consistent with legal principles. Along with the punishment of the players, a main justification for punishment is to deter future crimes, and in this sense, Landis's edict has proven effective — baseball hasn't seen any more World Series fixes.

Notes

1. In the words of the contract, "either to terminate this contract forthwith, by written notice, or to suspend the player, by written notice, without pay until the club owner is satisfied that the player is ready, able and willing to resume his services in the manner in this paragraph provided." See, for example, the White Sox player contracts from 1917-20 signed by Eddie Cicotte, Red Faber, and Dickey Kerr held at the Chicago History Museum.

2. See *Major League Agreement*, Article 8, Sec. 4(d), January 12, 1921. The American League Constitution's language on the expulsion of teams was similar to the National League Constitution, which can be viewed online at lib.umd.edu/univarchives/baseball.

3. Harold and Dorothy Seymour, *Baseball: The Golden Age* (New York: Oxford University Press: 1971), 330.

4. David Pietrusza, *Judge and Jury: The Life and Times of Judge Kenesaw Mountain Landis* (South Bend, Indiana: Diamond Communications, 2001), 194. Others go so far as to proclaim Weaver's "innocence." See Greg Couch, "How Baseball Has Spent 96 Years Punishing An Innocent Man For The 1919 Black Sox Scandal," VICE Sports, July 2, 2015.

5. See the *Atlanta Constitution*, February 6, 1919, for the text of this section and a discussion of the Chase case. Section 40 can also be found in *Reach's Official 1919 American League Base Ball Guide* (Philadelphia: A.J. Reach Co., 1919), 148, accessed online at archive.org/details/reachofficialame19181phil/page/148.

6. Cf. the 1877 case of the four Louisville Grays players who were banned from baseball by the National League after a league investigation. Section 40 encompassed actions that were not illegal *per se*, but rather against the best interests of baseball, and thus a Section 40 ban didn't depend on any court finding of criminal guilt. Legal concepts such as "jury nullification," which Black Sox author Bill Lamb ar-

gues is the reason why the Black Sox were acquitted, had no bearing on any determination under baseball's rules. In practice, however, baseball officials understood their rulings would be more accepted by the public if the rulings followed legal principles.

7. From the evidence it is unclear how many, if any, of the Black Sox also violated baseball's rules against betting on games. It was charged that Lefty Williams (or his wife) wagered on the 1919 Series (a charge Williams denied), while author Eliot Asinof alleged that Chick Gandil also placed bets on the Series.

8. Pietrusza, *Judge and Jury*, 174.

9. American League president Ban Johnson also would have had the authority to issue the same order Landis did.

10. Larry Gerlach, "The Bad News Bees: Salt Lake City and the 1919 Pacific Coast League Scandal." *Base Ball: A Journal of the Early Game* (Jefferson, North Carolina: McFarland & Co., 2012).

11. On the 1920 allegations, see Bruce Allardice, " 'Playing Rotten, It Ain't That Hard to Do': How the Black Sox Threw the 1920 Pennant." *SABR Baseball Research Journal*, Spring 2016. On Weaver and 1919, see the *Pittsburgh Post*, October 1, 1920.

12. <https://www.justia.com/criminal/offenses/inchoate-crimes/conspiracy/>

13. The criminal case was tried in an Illinois court under state law. However, the initial conspiracy meeting was held in New York, and other parts of the conspiracy (the game-throwing) occurred in Ohio. In theory, conspiracy charges could have been brought in any of these states. In any event, Commissioner Landis was not bound by the laws of any of these states.

14. See William F. Lamb, *Black Sox in the Courtroom* (Jefferson, North Carolina: McFarland & Co., 2013), 101-102, for a discussion of the conspiracy laws that applied to the Black Sox 1921 prosecution.

15. Four different fix insiders — Eddie Cicotte, Joe Jackson, Lefty Williams, and Bill Burns — testified under oath that Weaver was present at the pre-World Series meetings.

16. See <https://www.justia.com/criminal/defenses/abandonment>. Cf. <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1634&context=facpubs>

17 *Smith v. U.S.*, 568 US 106, 133 S Ct 714, 184 L Ed 2d 570 (2013). *Smith* held that withdrawing from a conspiracy does not negate that a defendant participated in a conspiracy; it merely excuses post-withdrawal conduct from liability. *Smith* reminds conspirators that, in order to claim withdrawal, they must, at the least, communicate their decision to withdraw to their co-conspirators. "Passive non-participation in the continuing scheme is not enough to sever the meeting of minds that constitutes the conspiracy."

18. Charles Fountain, *The Betrayal: The 1919 World Series and the Birth of Modern Baseball* (New York: Oxford University Press, 2015), 80; Lamb, *Black Sox in the Courtroom*, 53.

‘You don’t like me much’: Ben Short, defense counsel

By Bill Lamb

wflamb12@yahoo.com

As they faced charges that might land them in an Illinois penitentiary, accused Black Sox defendants Shoeless Joe Jackson and Lefty Williams took heart from their representation by veteran Chicago criminal defense attorney Benedict J. Short.

More than a quarter-century of practice in the rough-and-tumble legal business of the Windy City had equipped Short with the sharp elbows and courtroom smarts that would be needed if his clients were to escape conviction. Given that both Jackson and Williams had confessed their complicity in the fix of the 1919 World Series to a Cook County grand jury, it looked like an uphill battle at the outset.

But over time, events and jury sympathies would break the defendants’ way, and Jackson, Williams, and all the other accused were acquitted at trial. This essay examines the life and career of defense counsel Ben Short, and assesses the extent to which his efforts contributed to the outcome of the Black Sox case.

Early Career

Benedict John Short¹ was born on August 12, 1868 in Hartland, Illinois, a railroad whistle stop located some 70 miles northwest of Chicago. He was the oldest of five children born to Union Army veteran James M. Short and his wife, the former Katherine Quinlan.² Both parents descended from the Irish Catholic immigrants who had settled the little community in the 1830s.³ By the time of the 1880 US Census, the Short family had relocated to Chicago where father James joined the city police force. Ben graduated from St. Patrick’s Commercial Academy and earned his law degree from Northwestern University. He was admitted to the Illinois bar in 1893.

The first decade of Short’s legal career was unremarkable. For the most part, he handled mundane civil matters, incorporated some small businesses,⁴ and offered himself as a Democratic Party candidate for appointment to minor Chicago governmental positions (which he did not receive).⁵

Short’s professional visibility as well as his political prospects improved with switches to criminal defense work and Republican Party affiliation in the early 1900s. Emergent relief sought on behalf of a convicted murderer facing imminent execution and trial defense of a mine owner on a perjury charge got Short’s name in local newsprint.⁶ So did his social life, with Short’s August 1902 marriage to opera singer Julia McInerney being noted in the *Chicago Tribune*.⁷ The union produced two children, a daughter named Julia (born August 1903) who did not survive infancy, and Frances in 1906, but was not a happy one. The cause of the couple’s 1907 divorce, however, was shrouded by “pro-



Attorney Ben Short represented Shoeless Joe Jackson and Lefty Williams at their criminal trial in 1921. He was also involved in a memorable, witty exchange with prosecution witness Sleepy Bill Burns. (Photo: Chicago History Museum, Chicago Daily News, SDN-0087083)

ceedings guarded with secrecy ... and ‘mistakes’ placed on court records.”⁸

In the meantime, the event that catapulted Ben Short front and center into public consciousness had taken place: his appointment as an Assistant Cook County State’s Attorney by Republican officeholder John E.W. Wayman. In virtually no time, the new prosecutor was handling a steady diet of high-profile murder cases (of which violence-ridden Chicago had no shortage). In the process, Ben developed the courtroom skills and the aggressive, concede-nothing attitude that became his professional trademark.

A respite of sorts from such heavyweight fare, however, was provided by Short’s prosecution of fellow attorney Robert E. Cantwell, an avid Chicago White Sox fan charged with assault for slugging umpire John Kerin after a Sox game against Boston. Cantwell was convicted and fined \$100.⁹

A second marriage to divorcee Mercie Simpson Kilgallon in September 1908 settled Short’s domestic situation. Months later, Wayman appointed him as First Assistant State’s Attorney.¹⁰ As Cook County’s lead courtroom prosecutor, Short’s regimen of homicide trials was now leavened with voter fraud, labor racketeering, and other criminal prosecutions fraught with political implications.

In 1912, Wayman decided to forego another term in office and seek the Republican Party nomination for Illinois Governor. Short was among those contending to take his place. Although his candidacy attracted support from

► Continued on page 22

► SHORT

Continued from page 21

progressive segments of the party,¹¹ GOP stalwart Lewis Rinker got the party nod for the Cook County State's Attorney post. In the November election, Rinker was beaten by Maclay Hoyne, a fiercely partisan Democrat — and future antagonist of Benedict J. Short.

During the 1912 campaign, Short resigned his position at the SAO to return to private practice. In time, he formed the law firm of Short, Davis & Rust, and resumed criminal defense work. In one heavily covered fraud case, Short's assertive representation of the defendants included ad hominem denunciation of State's Attorney Hoyne.¹² Thereafter, he campaigned to unseat Hoyne, but again failed to garner the Republican Party nomination for the post, despite the endorsement of powerful Chicago Mayor Big Bill Thompson.¹³

With that, Short's aspirations for political office pretty much expired. From then on, he concentrated on defending murder suspects, shady politicians, corrupt union officials, and other prominent Chicago accused.

The Wanderer Case

In 1918, Short left his law firm and entered practice with George H. Guenther, an experienced criminal defense attorney and one-time SAO colleague. The two would go on to represent some of Chicago's most notorious criminal defendants, but none as despised as Carl Wanderer, an indigent whom the partners were assigned to represent by the court.

Widely reviled in the press, Wanderer was charged with the heartless and cold-blooded murder of his pregnant wife and a hapless stranger whom Wanderer had intended to blame for his wife's slaying. After the plot unraveled, Wanderer confessed to both killings. The two murder charges lodged against him were then severed, with trial of his wife's murder to go first. Tasked with defending an unsympathetic client whose commission of a heinous crime seemed undeniable, the cause appeared hopeless. And to make the situation worse, lead prosecutor in the Wanderer case was Cook County ASA James C. O'Brien, whose record of convicting murderers and sending them to the gallows had earned him the fearsome courthouse nickname "Ropes."¹⁴

Wanderer's acquittal was beyond the reach of even a courtroom operative as skilled as Ben Short. But his defense of Wanderer muddied the waters sufficiently to give jurors pause. The sentence returned by the jury — guilty of murder but only a 25-year prison sentence — appalled the trial judge and outraged the public. Wanderer was jubilant, crowing, "I knew they couldn't crack me. I owe everything to Ben Short. He said not to worry. I knew I'd never swing."¹⁵

The outcome of the Wanderer trial greatly burnished his lead attorney's professional reputation, but Short had no

WHEN THE BLACK SOX JURY CAME IN



Ben Short, second from right in the front row (#14), poses for a photo with the Black Sox defendants, jurors, and other attorneys following the not guilty verdict.

(Photo: Chicago Tribune, August 3, 1921)

intention of attempting an encore. Within days of the verdict, he and Guenther resigned as counsel for the accused.¹⁶ An entirely new cast of characters — prosecutors, defense counsel, trial judge, jurors — was enlisted for Wanderer's subsequent trial for the murder of "the ragged man," the never-conclusively-identified vagrant killed alongside Mrs. Wanderer.

By the time Wanderer was tried, convicted, and executed for that crime in September 1921, erstwhile counsel Benedict J. Short had rendered the professional services for which he is remembered today: the defense of Shoeless Joe Jackson and Lefty Williams in the Black Sox case.

The Black Sox Trial

Those charged in the Black Sox case had the benefit of able and experienced counsel. Thomas Nash and Michael Ahern (who defended Buck Weaver, Swede Risberg, Happy Felsch, and Fred McMullin), former ASA James O'Brien (Chick Gandil), and Max Luster (gamblers David Zelcer and the Levi brothers) were among Chicago's most respected lawyers.¹⁷

But entering the trial, the defense camp's legal star was generally deemed to be Ben Short, counsel for Shoeless Joe Jackson and Lefty Williams, a fact reflected, perhaps unconsciously, by placement of Short at the center of virtually every group photo of Black Sox defense counsel published in the press.¹⁸

Although the surviving judicial record is fragmentary and the judgments rendered herein are admittedly subjective, it is the writer's view that Short did not live up to his billing. His performance on behalf of Jackson and Williams was uneven, effective in spots, wanting in others.¹⁹

Given his aversion to the interposing of passive or

► Continued on page 23

► SHORT

Continued from page 22

reactive-type defenses, it is likely that Short was one of the architects of the aggressive and unyielding courthouse strategy adopted by the Black Sox accused. In keeping with this posture, the first defense move was a bold one: repudiation of the sworn confessions of fix complicity that Jackson and Williams had made before the grand jury. Appended to a pretrial defense motion for a bill of particulars sought from the prosecution²⁰ were affidavits signed by Jackson and Williams that averred that they had taken no part in the corruption of the 1919 World Series.²¹ A demand that the prosecution be precluded from using the Jackson, Williams, and Eddie Cicotte grand jury testimony at trial followed.

For the most part, however, the blizzard of pretrial motions filed by the Black Sox defense was almost entirely the handiwork of Henry A. Berger, co-counsel for the gambler Carl Zork. Once proceedings actually began, Short and Berger then teamed up to drag out the jury selection process via extended questioning of prospective panelists, until fed-up trial judge Hugo M. Friend threatened to continue the jury selection process at night and all day Saturday.

How thoroughly prepared Short could have been for trial is unclear at best. During the pretrial period, he and law partner Guenther spent the weeks immediately preceding the start of the Black Sox trial not in preparation of the defense of Joe Jackson and Lefty Williams, but in court representing another high-profile client, accused murderess Cora Orthwein. Indeed, the self-defense-based not guilty verdict in the Orthwein case was not rendered until juror screening in the Black Sox case was under way.

Notwithstanding that, Short scored points for the Black Sox defense early in the prosecution case when he provoked White Sox owner Charles Comiskey into an unseemly courtroom outburst. The insinuation that Comiskey had been a contract jumper during the ancient Players League War of 1890 so infuriated the old man that, after issuing a loud, indignant denial, he sprang from the witness stand and headed straight for Short, only to be intercepted by court attendants.²² Comiskey's agitation was found amusing by the accused, some of whom were observed laughing.²³ But soon enough, the object of courtroom laughter would be defense counsel Short.

Early in the proceedings, the prosecution placed its star witness on the stand: indicted conspirator-turned-state's evidence Bill Burns. Belying his "Sleepy Bill" nickname, Burns proved an adroit narrator of fix-related events, particularly while undergoing cross-examination. Cool and unflappable, he was more than a match for sneering defense counsel. Except for some waffling on dates, Burns was unshakable.

Among the defense lawyers to take a run at the witness was courtroom hard-nose Ben Short. But his interrogation



Defense attorneys Ben Short, right, and George Guenther, center, talk with Cora Orthwein, who was accused of murdering her husband in March 1921. She was later acquitted. (Photo: Chicago History Museum, *Chicago Daily News*, SDN-0073234)

of Burns proved no more effective than that of his colleagues. Toward the end, Short decided to make it personal. This colloquy ensued:

Short: "You don't like me much, do you Bill?"

Burns: "Sure I do, Ben. You're a smart fellow, and I wish we had someone like you at the head of this deal. We'd all be rich now."²⁴

Spectators laughed, Short fumed, and Burns remained triumphant on the stand, with most courtroom observers adjudging him the clear victor in the clash.²⁵

Nor was Short successful in his efforts to have the Jackson, Williams, and Cicotte grand jury confessions precluded from evidence. Following a mid-trial testimonial hearing conducted out of the jury's presence, Judge Friend determined that the testimony was freely and intelligently given, rejecting defense claims that same had been prompted by off-the-record promises of immunity from prosecution.²⁶

After the three confessions were read to the jury in redacted form,²⁷ the prosecution closed its case with unindicted fix conspirator and Burns sidekick Billy Maharg. Affable and seemingly guileless, Maharg breezed through cross-examination by Short and company. Nary a glove was laid on the one-time Philadelphia club fighter by the defense.

Unlike other Black Sox counsel, Short never committed to having his clients testify before the jury. But the fact that not one of the accused players took the witness stand surprised most courtroom observers.²⁸ When it came time for closing arguments, Short summed up for Jackson, Williams, and Cicotte, whose defense he had largely overseen during the proceedings.²⁹

Curiously, Short began by asserting a technical defense: that the players had never intended the fix of the 1919 World

► Continued on page 24

► SHORT

Continued from page 23

Series to become public knowledge and that, as a result, the prosecution had failed to demonstrate the intent to defraud the public required for conviction — a circuitous, legalistic argument with no facial jury appeal.

Along similarly non-appealing lines, Short maintained that neither Comiskey nor the White Sox corporation would have been injured had the Series plot remained a secret as the defendants intended. Shifting gears to more compelling arguments, he then asserted that even if there had been a plot to throw the 1919 World Series, the statistics posted by his clients (including three-game loser Lefty Williams, incredibly) belied their participation in it.

Short's summation also reiterated the denunciation of American League President Ban Johnson voiced by preceding defense speakers, and concluded, over vigorous prosecution objection, with the declaration that the jurors, Judge Friend, and defense counsel were the only persons in the courtroom "not under Ban Johnson's thumb."³⁰

Despite the presentation of a powerful case against defendants Cicotte, Jackson, and Williams, and a strong, albeit more circumstantial one, against Chick Gandil, Swede Risberg, and gambler David Zelcer, the jury acquitted everyone. This author's thesis that the not-guilty verdict was the product of jury nullification, while eminently plausible, cannot be proved.³¹ But it is also difficult to attribute the final outcome of the case to Jackson/Williams defense counsel Benedict J. Short. His work in the courtroom was not distinguished. Short's cross-examination of his clients' principal accusers (Burns and Maharg) was ineffectual; his efforts to suppress the confession evidence were unavailing; and his closing remarks to the jury sounded some odd, even counterproductive, notes.

But in the end, only the verdict mattered. So, defense counsel Short basked in the glow of victory, assuming a prominent place in the well-known post-verdict photo of celebrating defendants, lawyers, and jurors published in the next morning's *Chicago Tribune*.³²

Subsequent Legal Career

Within hours of the verdict being rendered, Commissioner Kenesaw Mountain Landis issued his famous edict casting the acquitted ballplayers into the game's wilderness. Their careers in Organized Baseball were over. But the legal career of Jackson/Williams defense counsel Benedict J. Short had only reached the halfway mark. He would continue doing high-profile courtroom work for another 20 years. As in the Wanderer case, Short knew when to quit when it came to the Black Sox. Although versed in civil litigation, he would play no role in the civil lawsuit pursued by Shoeless Joe Jackson and other players against the White Sox.³³

For the next two decades, Short returned to the de-

fense of accused murderers, corrupt politicians, and other Chicago miscreants. But increasing age, illness, and the death of second wife Mercie in 1939 eventually took their toll. Retained as co-counsel for the Fall 1942 federal court treason trial of American citizens accused of collaborating with Nazi saboteur Herbert Haupt — already tried, convicted, and executed — Short was unable to save them from conviction.

But argument of a new trial motion (ultimately unsuccessful) had to be adjourned when Short proved too sick to participate.³⁴ Our subject's last discovered courtroom appearance came in January 1943 when he represented three Chicago men charged with sedition. They, too, were convicted, but again post-verdict proceedings had to be postponed due to Short's illness.³⁵

Short spent the remainder of his life largely confined to his upscale Chicago apartment, his needs attended to by a downstairs neighbor. Removed to Alexian Brothers Hospital, he died there "after a long illness" on March 24, 1947.³⁶ Benedict John Short was 78. Following funeral services, his remains were interred next to those of second wife Mercie at Forest Home Cemetery in nearby Forest Park, Illinois. The only survivor listed in obituaries was his younger brother Raymond.³⁷

Notes

1. The 1870 and 1880 US Censuses, as well as Chicago voter registration data through 1890, list our subject's name as John Benedict Short. The reversal in order of Short's first and middle names begins in the early 1890s.

2. Ben's younger siblings were Frederick (born 1870), Cornelius (1875), Raymond (1879), and Katherine (1887).

3. According to local lore, Ben's uncle John Short was the first white child born in Hartland, per *The History of McHenry County, Illinois* (Chicago: Munsell Publishing Company, 1922). At the time of nephew Ben's birth, the population of Hartland remained under 1,000.

4. See e.g., "New Corporations," *Chicago Daily News*, February 26, 1894: 9.

5. "To Fill the Justiceships," *Chicago Eagle*, April 20, 1895: 2; "West Town Applicants," *Chicago Eagle*, October 22, 1898: 3.

6. *Chicago Daily News*, June 14, 1904 and January 15, 1906.

7. "Chicagoan Weds Opera Singer," *Chicago Tribune*, August 7, 1902: 2. The wedding announcement further noted that groom Short, a drawing room party pianist and music lover, had composed such then-popular ditties as "Just Because I Love You So" and "Little Brown Eyes."

8. "Sparks from the Wires," *Rockford (Illinois) Register-Gazette*, July 31, 1907: 4. Following the divorce, Julia Short with daughter Frances in tow returned to her hometown of Abilene, Kansas. Neither his ex-wife nor his daughter

► Continued on page 25

► SHORT

Continued from page 24

appears to have had any further contact with Ben.

9. As reported nationwide. See e.g., “Pugnacious Fan Is Fined,” *Kalamazoo (Michigan) Gazette*, October 13, 1908: 6; “For Assaulting an Umpire,” *Kansas City Star*, October 13, 1908: 1. A Cantwell punch had broken Kerin’s nose.

10. “Wayman Names First Assistant,” *Chicago Tribune*, January 30, 1909: 4, and elsewhere.

11. See e.g., “Women Campaign for Own Slate,” *Chicago Tribune*, March 6, 1912: 6.

12. “Seeks Criminal Charges; Hoyne Violated Oath,” *Chicago Tribune*, November 19, 1913: 15.

13. “Thompson Clan Picks B.J. Short for Hoyne Job,” *Chicago Tribune*, October 25, 1915: 14.

14. For a profile of James “Ropes” O’Brien, see the author’s article, “‘Ropes’ at the ready: defense attorney James O’Brien,” *SABR Black Sox Scandal Committee Newsletter*, December 2018.

15. As reported in “25 Years for Wanderer; Judge Calls Jury’s Action Regrettable,” *Chicago Tribune*, October 25, 1930: 1, and throughout the Midwest. See e.g., “Wife Slayer Is Elated,” *Kansas City Star*, October 30, 1920: 3; “Wanderer Rejoices Over Fact That He Will Not Be Hanged,” *Grand Forks (North Dakota) Herald*, October 30, 1920: 2. Presuming time off for good behavior, the jury’s sentence left Wanderer eligible for parole in only 13 years.

16. “Lawyer Who Saved Neck of Wanderer Resigns from Case,” *Fort Worth Star-Telegram*, November 2, 1920: 11; “Hoyne Puts New Wanderer Trial Up To Successor,” *Chicago Tribune*, November 2, 1920: 13.

17. Defendant Eddie Cicotte’s attorney of record was Daniel Cassidy, a civil lawyer from Detroit and a personal friend. For the most part, however, Ben Short handled the Cicotte defense at trial.

18. See e.g., Black Sox attorney photos published in the *Chicago Tribune*, July 7, 1921, and *Chicago Herald Examiner*, July 21, 1921.

19. In this writer’s view and by a wide margin, the most effective defense lawyers in the Black Sox case were the team of A. Morgan Frumberg and Henry A. Berger, co-counsel for gambler defendant Carl Zork.

20. A bill of particulars is a petition to the court which seeks to have the prosecution explain or provide more information about the charges filed against the accused.

21. “Indicted Ball Players to Attempt Exoneration,” *Augusta (Georgia) Chronicle*, February 13, 1921: 4; “Charges Are Denied,” *Bellingham (Washington) Herald*, February 14, 1921: 5. The motion papers also included an affidavit claiming innocence by non-confessing Buck Weaver.

22. “The Old Roman Under Fire,” *Chicago Tribune*, July 19, 1921: 2; “Old Roman Passes Lie to Attorney,” *Dallas Morning News*, July 19, 1921: 13.

23. “Comiskey Resents Implication that He Jumped

Contract,” *Richmond Times-Dispatch*, July 19, 1921: 1; “State Places Confidence in Burns’ Story,” (Indianapolis) *Indiana Times*, July 19, 1921: 9.

24. “Burns Answers Lawyers’ Jabs,” *Evansville (Indiana) Journal*, July 22, 1921: 1; “Sox Made Own Plans for Series Throwing Bill Burns Testifies,” *Lexington (Kentucky) Herald*, July 22, 1921: 6.

25. “State Has a Strong Case,” *Los Angeles Times*, July 22, 1921: 2; “State Jubilant After Scoring Heavily in Sox Trial,” *San Diego Evening Tribune*, July 22, 1921: 17.

26. As reported in the *Boston Globe*, *Chicago Herald Examiner*, and newspapers nationwide, July 26, 1921.

27. To comply with evidential mandates, the names of the non-confessing players (Gandil, Weaver, Felsch, et al) were deleted from the Cicotte/Jackson/Williams grand jury testimony when same was read to the jury.

28. The only defendant to testify in his own behalf was gambler David Zelcer.

29. Ordinarily a civil attorney, Cicotte defense counsel Daniel Cassidy was in attendance throughout the trial and occasionally cross-examined prosecution witnesses. But Cassidy yielded delivery of closing remarks on behalf of Cicotte to the far more experienced Short.

30. “Defense Finishes Case,” *Fort Wayne (Indiana) News Sentinel*, August 2, 1921: 1; “Calls Black Sox Johnson Slaves,” *New Orleans State*, August 2, 1921: 4.

31. For more on this, see William F. Lamb, “Jury Nullification and the Not Guilty Verdicts in the Black Sox Case,” *SABR Baseball Research Journal*, Vol. 44, No. 2 (Fall 2015), 47-56.

32. “When the Black Sox Jury Came In,” *Chicago Tribune*, August 3, 1921: 2. Predictably, Short is first row, just off center, in the photo of the throng celebrating on the courthouse steps.

33. Civil litigation against the White Sox on behalf of Jackson, Swede Risberg, and Happy Felsch would be instituted in Milwaukee by attorney Raymond J. Cannon. Meanwhile, Buck Weaver’s civil suit against the White Sox was litigated in an Illinois federal court. For more on these lawsuits, see William F. Lamb, *Black Sox in the Courtroom: The Grand Jury, Criminal Trial and Civil Litigation* (Jefferson, North Carolina: McFarland, 2013), 147-198.

34. The convictions were later reversed by a federal appellate court.

35. “Sedition Trial Motions To Be Heard Jan. 30,” *Chicago Sun*, January 24, 1943: 13.

36. “Atty. B.A. (sic) Short Dies Here at 78,” *Chicago Sun*, March 24, 1947. See also, “Benedict Short Rites Set; Well Known Lawyer,” *Chicago Tribune*, March 25, 1947: 26.

37. *Ibid.*, and “B.J. Short, Lawyer, Dies: Defended Carl Wanderer,” *Chicago Sun*, March 25, 1947: 22. First wife Julia McInerney Short had died in 1924, and no obituary mention was made of estranged daughter Frances. The bulk of Short’s \$35,000 estate was left to caretaker-neighbor Lillian Winter, according to “Wills Estate to Woman,” *Chicago Sun*, April 8, 1947: 61.

More coverage of the Black Sox Scandal in 2019

The goal of our [Eight Myths Out](#) project this year was to shine a spotlight on all the new research done by this committee — and to help make that research easier to find and access by anyone who would be writing about the Black Sox Scandal in 2019.

It's hard to overstate just how prominent a role Eight Myths Out played in setting the tone for this year's 100th anniversary coverage of the scandal.

From the *New York Times* to *The Athletic* to PBS to the Canadian Broadcasting Corporation, the scandal was covered extensively in print and online, on television and radio, and even through an original podcast series — and with extremely rare exceptions, the stories told about the 1919 World Series in all those mediums were informative, entertaining, and above all ... accurate.

That's exactly what we hoped to achieve during this centennial year and we appreciate all the hard work by everyone who wrote or produced these stories, sat down for interviews, or played any other role in shaping the coverage.

Here are some of our favorite highlights from the second half of the year:

- ◆ **John Thorn's** [essay in the *New York Times*](#) on October 9 provided important historical context to the Black Sox story 100 years later.
- ◆ **Patrick O'Connell** put our SABR symposium on the front page of the *Chicago Tribune* with [this recap](#) on October 1.
- ◆ **Zach Buchanan** [profiled the "baseball obsessives"](#) in our committee in *The Athletic* on October 4.
- ◆ **Stephanie Sy** of PBS NewsHour [produced a TV segment](#) highlighting all the new research about the scandal on October 9.

AROUND THE WEB

- ◆ **Shira Springer** of NPR's *Only A Game* explored Sport Sullivan's little-known role and Boston's connection to the scandal on October 18.
- ◆ **Michael Enright** of CBC's "Sunday Edition" sat down with Jacob Pomrenke for an [extended conversation](#) about the scandal on October 11.
- ◆ **Daniel Hautzinger** of WTTW in Chicago interviewed Bill Savage about [the enduring American mythology](#) of the scandal on September 26.
- ◆ **Phil Rosenthal** of the *Chicago Tribune* offered his list of the [five biggest misconceptions](#) about the scandal on October 2.
- ◆ **Jon Gold** of YardBarker [followed the new executive director](#) of the Shoeless Joe Jackson Museum, Dan Wallach, on October 24.
- ◆ **Steven Marcus** spoke to numerous Black Sox family relatives for [this *Newsday* story](#) on July 14.
- ◆ **Scott Powers** focused on the 1919 Reds and the credit they've never received for winning it all in [this story for *Cincinnati Magazine*](#) on September 17.
- ◆ **Steve Wulf** wondered if the Black Sox Scandal could happen again in light of sports gambling being legalized in the 21st century in [this story for ESPN.com](#) on October 9.
- ◆ **Rob Neyer** interviewed Jacob Pomrenke to preview the SABR symposium on [the SABRcast podcast](#) on September 9.
- ◆ **Jim Margalus** covered where the Black Sox Scandal stands 100 years ago and today in [this feature for *Sox Machine*](#) on October 3.

