

# Judge Learned Hand, Not a Baseball Fan (1959)

*John Q. Barrett\**

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By the end of April 6, 2015, the Major League Baseball season will have opened in the United States and Canada for every team. Fans are smiling again...

Baseball was not, alas, one of Robert H. Jackson's passions. When MLB tried in 1951 to persuade him to retire from the Supreme Court to become the Commissioner of Baseball, Jackson declined. He claimed not to know left field from right field and viewed an afternoon at the ballpark as wasted time.<sup>1</sup> He preferred other seasonal, outdoor activities, including long walks, horseback rides, skiing, skating, gardening and fishing—activities where no one kept score.<sup>2</sup> (Okay, sometimes Jackson's fishing mates, including on a couple of occasions President Franklin D. Roosevelt, did keep precise score of who caught what.<sup>3</sup>)

Baseball also seemed not to appeal to Judge Learned Hand. He served on the federal bench in New York City from Jackson's youth and outlived him by almost seven years. Judge Hand was one of Jackson's contacts in the law, an often kindred spirit and, to a degree, his friend.

In spring 1959, Judge Hand, then age 87 and a Senior Judge of the U.S. Court of Appeals for the Second Circuit, demonstrated publicly some

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For an archive of selected Jackson List posts, many of which have document images attached, visit <http://thejacksonlist.com>.

To subscribe to the Jackson List, which does not display recipient identities or distribute their email addresses, send "subscribe" to [barrettj@stjohns.edu](mailto:barrettj@stjohns.edu).

<sup>1</sup> See John Q. Barrett, *A Rehnquist Ode on the Vinson Court (circa Summer 1953)*, 11 GREEN BAG 2D 289, 302-04 (2008), available at [www.greenbag.org/v11n3/v11n3\\_barrett.pdf](http://www.greenbag.org/v11n3/v11n3_barrett.pdf).

<sup>2</sup> See a 2007 Jackson List post, *Jackson on his Hobbies*, <http://thejacksonlist.com/wp-content/uploads/2014/02/20070212-Jackson-List-re-Hobbies.pdf>.

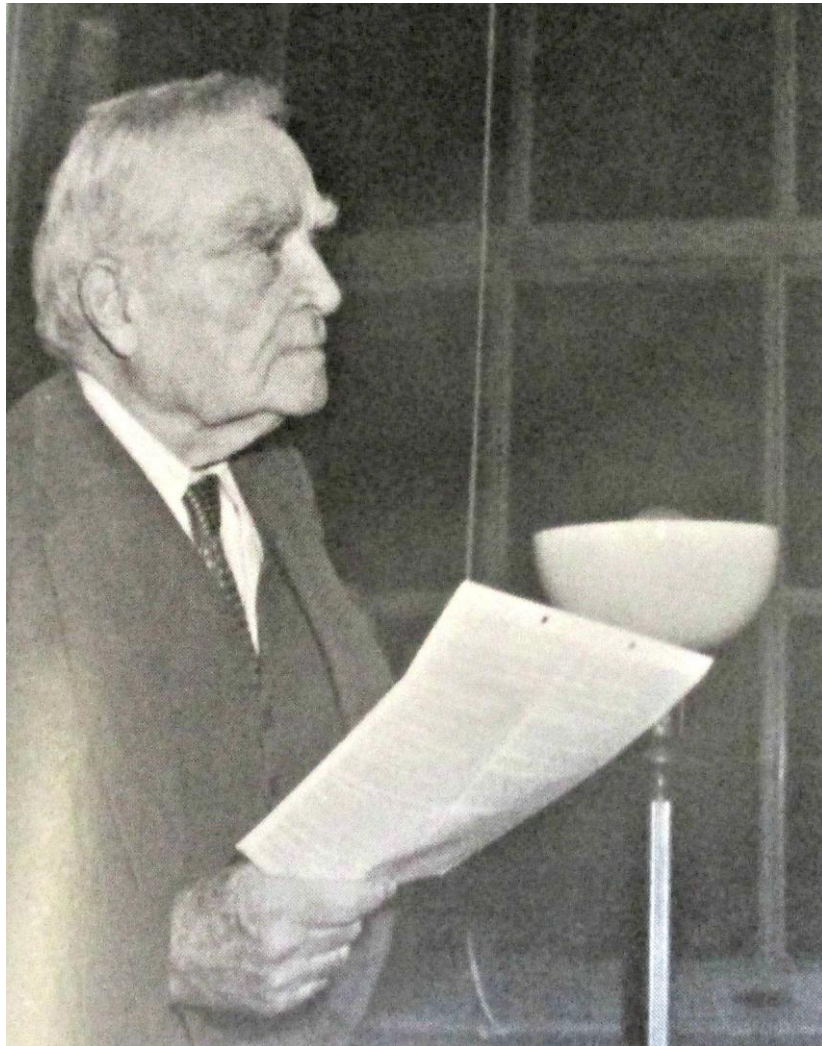
<sup>3</sup> See, e.g., *Roosevelt's Anglers Led By R.H. Jackson*, N.Y. TIMES, Dec. 3, 1937, at 9; *President Ties With Jackson For Fishing Honor*, WASH. POST, Mar. 23, 1941, at 1.

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baseball obliviousness. The occasion was the annual dinner meeting of the American Law Institute, held at the Mayflower Hotel in Washington, D.C.<sup>4</sup>



December 27, 1957 (seventeen months before the ALI dinner):  
Judge Learned Hand in his chambers, U.S. Court of Appeals, New York, NY.

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<sup>4</sup> The account that follows is based on two press reports: Max Freedman, *Appeals to Attorney General: Learned Hand Isn't Learned Fan: Is Mickey Mantle Thing or Man?*, WASH. POST & TIMES HERALD, May 24, 1959, at A1 (the longer and more colorful account), and *Random Notes in Washington: Judge Hand Fans on Baseball*, N.Y. TIMES, May 25, 1959, at 21 (which, published a day later, seems more crisp). Hand's biographer quoted the latter when he described, in his penultimate endnote, this incident. See GERALD GUNTHER, *LEARNED HAND: THE MAN & THE JUDGE* at 785 n.171 (1994).

Judge Hand made his baseball disclosure in a comment following Attorney General William P. Rogers's remarks at the dinner. Rogers recounted that his son Doug, age 12, had recently answered two telephone calls to their home. One was from President Eisenhower. The other was from Vice President Nixon. William Rogers reported that he had explained afterward to Doug that although these calls did not mean much to him now, they would one day. Doug had listened politely to his father and promised to remember the calls. Then, with great excitement, he had asked, "Did you ever meet Mickey Mantle?" To that boy and many, many others, the centerfielder of the New York Yankees was *the* leading national figure.

The ALI audience of course laughed. Then Rogers noticed his predecessor, former Attorney General Herbert Brownell, Jr., in the audience. Rogers described Brownell as "a Yankee fan" and waved to him, provoking more laughter and his wave back at Rogers. He then turned serious and commented, "Of course I realize that my story about Mantle right now is not timely."

Judge Hand, seated at the head table, was being honored at this dinner for his fifty years of federal judicial service. During Rogers's remarks and then his byplay with Brownell, Judge Hand was visibly perplexed. He whispered to his neighbor but appeared unsatisfied with the reply he received.

Then Judge Hand rose to speak. He thanked previous speakers for their many tributes to him. Then he volunteered that he did not know the "name" that Attorney General Rogers had mentioned.

The audience at first sat silent, unbelieving. Then gasps of astonished laughter broke out.

Judge Hand then addressed Rogers directly. "Mantle?," he asked. "I don't know what Mickey Mantle is or does. Is it a man or a thing?"

Sigh.

No one, except occasionally a pitcher, is perfect.