



TEMPERAMENTAL BALANCE

JOHN PAUL STEVENS, COUNSEL TO
CHARLES O. FINLEY

This article is an excerpt from the authors' forthcoming book, *John Paul Stevens: An Independent Life* (NIU Press 2010). A bit of background, courtesy of the authors: Charles O. Finley purchased the Kansas City Athletics baseball team from the estate of Arnold Johnson in 1960. Finley hired John Paul Stevens as his lawyer in 1967. Stevens was a partner with Rothschild, Stevens & Barry, a firm he organized with Edward I. Rothschild and Norman J. Barry in 1952. In 1951-52, Stevens served as a Republican-appointed staff member to the House Subcommittee on Monopoly Power, chaired by Emanuel Celler (D-NY).

— *The Editors*

Bill Barnhart & Gene Schlickman

INSURANCE ENTREPRENEUR Charles Oscar Finley from La Porte, Indiana, wanted to own a baseball team. Charlie O., as he came to be known, was single-minded, ruthless, and crude in pursuing what he wanted. In hindsight, Finley came to be regarded as a breath of fresh air for the game, but his impulsive antics made the other owners squirm. Finley had become a major hindrance as team owners wrestled with the problems of expanding

Bill Barnhart is a freelance writer and former financial columnist for the Chicago Tribune. Gene Schlickman is a retired attorney and former Illinois State representative. Copyright © 2010 Bill Barnhart.

the game to new cities and dealing with the first-ever union of major league players that showed muscle, the Major League Baseball Players Association, headed by Marvin Miller, former chief economist for the United Steelworkers Union.

As usual, baseball's elite, exempt from antitrust rules against collusion, conspired to devise a plan for dealing with Finley. Three lawyers – Bowie Kuhn, representing the National League; Sandy Hadden, representing the American League; and Paul Porter, representing the commissioner of baseball – met in New York City.

“Finley’s behavior was always unpredictable,” Kuhn recalled.¹ Although he was a good judge of baseball talent, Finley’s mercurial personality would have gotten him blackballed in any of the other owners’ country clubs. He treated players with equal abruptness, fining and otherwise disciplining players for minor infractions. He fired his manager, Alvin Dark, and rehired him a few years later. “He was predictably unpredictable,” Kuhn said. “And it was a time when we were very anxious to create a good working climate with the union. Finley’s treatment of ball players was never good. Charlie was doing things which the union could seize upon and say the owners were behaving unfairly. It gave the union leverage.”

Worse, he had enraged Kansas City’s civic establishment by announcing that he might move the team just three seasons after he acquired it. Missouri Senator Stuart Symington angrily threatened to revisit baseball’s antitrust exemption in Congress. Someone had to get Finley under control. Porter, who had known Stevens since the days of the Celler antitrust hearings, “came up with the idea of Stevens,” Kuhn said.

Earlier, Finley had retained one of the nation’s celebrity lawyers, Louis Nizer, to be his muscle against fellow team owners and other perceived antagonists. But Nizer’s flamboyance nearly equaled Finley’s. The trio of baseball lawyers decided that Stevens could provide temperamental balance and asked Hadden, on behalf of the American League, in which the A’s played, to approach Finley with the idea. “Remarkably enough – he wasn’t a guy who took

¹ Bowie Kuhn, interview with Barnhart, Sept. 16, 2003.

Temperamental Balance

suggestions easily – he liked it,” Kuhn said. “He thought it was a good idea. I could not have been more delighted.”

Finley’s antagonisms extended beyond his fellow team owners. In labor negotiations with players association head Marvin Miller, “Finley would never sit still in a chair,” Miller remembered. “He would get red in the face to an alarming degree. He would cuss, not at you individually but at the situation. . . . Every once in a while Stevens asked for a recess and walked out with Finley and then came back.”²

“John would let Charlie do his thing, and then John would give Charlie some advice, and that’s what he would do,” said former law partner Alan L. Unikel, who worked with Stevens on Finley-related matters. “He was soft-spoken. When Stevens raises his voice, he’s on the wrong side of the case.”³

The chemistry between Finley and Stevens prompted several lines of speculation. William Myers, who joined Stevens’s law firm in 1955, agreed that the two men seemed like an odd couple. But he noted that Finley in 1964 was trying to relocate the Athletics to Oakland, California, a move that required approval of other owners. “Charlie was concerned about getting the proper vote of the owners and wanted to have an antitrust person, I’m guessing, as a threat if the deal wasn’t approved,” Myers said.⁴ The fact that Stevens had shown no ideological bias in antitrust circles made him a less predictable and therefore more credible counsel for Finley, who viewed the antitrust law not as legal doctrine but as the ace up his sleeve.

Stevens’s bona fides as an antitrust combatant were no secret. In 1961, Byron R. White, the deputy attorney general in the Kennedy administration and future Supreme Court justice, interviewed him for the job as head of the Justice Department’s Antitrust Division. Stevens and White had met each other in Hawaii as fellow navy officers. “I never had to give him a definite answer because [Attorney

² Marvin Miller, interview with Barnhart, Aug. 29, 2003.

³ Alan L. Unikel, interview with authors, Dec. 12, 2003.

⁴ William G. Myers, interview with authors, Aug. 15, 2003.

General] Bobby Kennedy had other plans,” Stevens recalled.⁵

In the years before civil rights enforcement became the trademark of the Justice Department, antitrust was high on Robert Kennedy’s agenda. Lee Loevinger, who regarded antitrust enforcement as a “secular religion,” got the job.⁶ He hailed from the Minnesota Democratic-Farm-Labor Party, whose founders included his father and Hubert H. Humphrey, the Democratic whip in the Senate.

But Stevens clearly had made the big leagues in antitrust law. The Finley/Stevens personality mix made sense, as well, said former Athletics star Ken Harrelson. “Hawk” Harrelson was a colorful and assertive player whom Finley released from the A’s in a pique of anger. “Charlie was an enigma,” Harrelson said. “He liked to talk to people who were almost the antithesis of him.”⁷

The personalities of Stevens and Finley had at least one thing in common: an ability to focus single-mindedly on the goal at hand, independent of distractions that might have sidetracked others.

The best analysis of the Stevens/Finley relationship probably was expressed by Stevens himself. In 1972, after he had joined the federal appeals court in Chicago, Stevens testified by way of a deposition that was read to the jury in the trial of a lawsuit brought by a former Oakland A’s official, William Cutler. Finley had hired Cutler as his vice president for baseball operations in late 1967 and fired him six months later. Cutler sued for back pay, claiming that Finley had misrepresented his job description. Stevens testified that he had forewarned Cutler before he signed with Finley: “You and I both know that Charlie is a difficult man to work for. Before you take the job, you have to commit yourself.” Stevens added, “Bill knew he had to be prepared to get along with Charlie.”⁸

⁵ John Paul Stevens, “Random Recollections,” speech to University of San Diego School of Law, April 7, 2004.

⁶ Quoted in James R. Williamson, *Federal Antitrust Policy During the Kennedy-Johnson Years* (Westport, CT: Greenwood Press, 1995), p. 57.

⁷ Ken Harrelson, interview with Barnhart, Sept. 5, 2003.

⁸ John Paul Stevens, quoted in Herbert Michelson, *Charlie O: Charles Oscar Finley vs. the Baseball Establishment* (Indianapolis: Bobbs-Merrill Co., 1975), p. 69.

Temperamental Balance

Cutler won his case, nonetheless. After the verdict, the jury foreman told a reporter: “I thought [Finley] was an ass. A hard-nosed, successful businessman, yeh. I was impressed with him because he is very successful at what he does. But the way he handles people rubbed me wrong. I saw him chew out his own lawyer in the hall and I didn’t like that.”⁹

Stevens and Finley remained an unlikely pair until Stevens went on the federal bench in 1970. Kuhn recalled that some in baseball’s establishment who had cheered Stevens’s role as a calming influence on Finley were not pleased at how well Stevens had succeeded in relocating the A’s. “I didn’t think it was a good move but I did attribute the ability of Finley to pull it off to having John Paul Stevens as his lawyer,” Kuhn said.¹⁰

Just days before the start of the 1968 baseball season, Finley refused to come to terms with Oakland officials over use of the newly constructed Oakland-Alameda County Coliseum. “He was the kind of negotiator who wanted to squeeze that last drop of blood,” said Coliseum general manager William Cunningham.¹¹

Once, Finley and his lawyer walked out of a late night meeting in the newly built Coliseum, intending not to return. “Charlie insisted if we couldn’t get an agreement we should storm out of the meeting,” Stevens recalled.¹² But the negotiating ploy went awry. The two men exited the building and found themselves in the middle of nowhere, with no automobile, taxicab, or public transportation available at the new facility. They had to return to the meeting to ask for a ride.



⁹ Quoted in Herbert Michelson, *Charlie O: Charles Oscar Finley vs. the Baseball Establishment* (Indianapolis: Bobbs-Merrill Co., 1975), p. 81.

¹⁰ Bowie Kuhn, interview with Barnhart, Sept. 16, 2003.

¹¹ William Cunningham, interview with Barnhart, Aug. 28, 2003.

¹² John Paul Stevens, interview with authors, Oct. 6, 2003.