



Randy Maniloff: The Pa. Supreme Court justice who explained why Pittsburgh needs its teams

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Just “as man cannot live by bread alone,” wrote state Supreme Court Justice Michael Musmanno in a decision that changed Pittsburgh’s future, “a city cannot endure on cement, asphalt and pipes alone.” Its objective is not merely to “survive” but to “progress.”

Sixty years ago, the court was called upon to resolve a dispute over the Pirates’ stadium. Before the court in *Conrad v. Pittsburgh* was the city’s plan for financing a new ballpark for the Pirates and Steelers. Some citizens had sued to stop its construction, claiming the deal violated a provision in the state’s Constitution that required voter approval to incur debt.

The court approved the financial arrangement. Four years later, Three Rivers Stadium opened its doors.

A fascinating life

Justice Michael Musmanno agreed with his colleagues’ decision, but he wasn’t content to simply cast his vote. A citizens group had balked about the planned new stadium, writing in a “friend of the court” brief that it was a “luxury” and not an “essential service.” He wrote a separate opinion directed to those concerned citizens.

But first, a brief outline of the fascinating life of Michael Musmanno. Born in Stowe Township in 1897, he worked in the mines and fought in World War I before going to college at George Washington and law school at Georgetown. He became known as a defender of working people.

In the 1920s, Musmanno helped defend Sacco and Vanzetti, two Italian anarchists accused of murder and later executed. He began as a Republican but became a Democrat in 1932 to support Franklin D. Roosevelt. That same year he debated immortality with atheist and crusading lawyer Clarence Darrow at Carnegie Music Hall.

In World War II, he served as an attorney in the Navy. After the war, he was the presiding judge at one of the Nuremberg trials and in 1961 was a prosecution witness in the trial of the Nazi Adolph Eichmann.

Upon returning to Pittsburgh, Musmanno became a Common Pleas judge and then in 1951 was elected to the Pennsylvania Supreme Court, where he served until his death in 1968 and where he created his reputation as one of the most entertaining writers on the bench.

Dissenting to a 1966 decision that Henry Miller’s novel “Tropic of Cancer” was not obscene, for example, he declared the book “a cesspool, an open sewer, a pit of putrefaction, a slimy gathering of all that is rotten in the debris of human depravity. And in the center of all this waste and stench, besmearing himself with its foulest defilement, splashes, leaps, cavorts and wallows a bifurcated specimen that responds to the name of Henry Miller.”

What a city needs

The civic group had told the court that “the community can survive without a baseball and football stadium, but it must have police, fire, school, sewage disposal, and other basic services.” That’s when the justice explained what a city really needs, more than cement, asphalt and pipes.

It must have a “municipal spirit beyond its physical properties” and “be alive with an esprit de corps.” A city must have a “personality” — one that attracts visitors and makes its inhabitants want to contribute to the city.

With the pitch delivered, Musmanno now took his big swing: “Hardly anything in America symbolizes a large city more than its National or American League baseball team. To take the Pittsburgh baseball team out of Pittsburgh would be to deprive its people of the opportunity for a spontaneous outburst of civic pride, for which there is no substitute.”

He viewed the city and its baseball team as inseparable. “To take the Pirates out of Pittsburgh,” he went on, “would be like taking them out of the history of the Spanish Main, it would be like diverting the course of the Allegheny and Monongahela River so that they would not form the Ohio at the immortally historical Fort Pitt, it would be like turning the Golden Triangle into a Tin Pan Alley, it would be like transforming the 42-story Cathedral of Learning into a one-room country school-house.”

Musmanno was also sure that the members of the Civic Club of Allegheny County would change their minds about the stadium after the baseball season had begun and they experienced “the spine-tingling strains of the Star Spangled Banner,” heard “the dramatic crack of the bat as the ball goes soaring out into space” and watched “the dust of the diamond exploding into clouds as the runner with the winning run comes furiously sliding into the home plate.”

The civic club made the point that it was not against the Pirates. But since Forbes Field would be no more, Musmanno explained, to deprive the Pirates of a home was the equivalent of driving them out of Pittsburgh.

It could have been a sad day

“It would be a sad day indeed if the Pirates should leave Pittsburgh and not return,” a concerned Musmanno said.

“Not to have the gadsome and thrilling Opening Day of the Baseball Season each spring, not to watch the tension-charged race of the home team against the teams from afar, not to be constantly buoyed up with the hope that with every game Pittsburgh may be getting closer to the coveted National League pennant and then go on to the electrifying sensation of the World Series — when for a week, all foreign and domestic troubles and the vexations of the high cost of living are domestic out in the flood of throbbing anticipations — not to have all this would be tragedy indeed in the history and life of Pittsburgh.”

Musmanno’s swing connected. Pirates fans were safe at home.

Randy Maniloff is an attorney at White and Williams, LLP, in Philadelphia and an adjunct professor at the Temple University Beasley School of Law, and an occasional contributor to the Post-Gazette. His previous article was “People who help solve crimes don’t always get the reward.”

Correction: Justice Musmanno went to George Washington University for his B.A. and was an attorney for the Navy in World War II, not the Army. The mistake was the editors’

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