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## Judge Hears Arguments in Flood Case

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# Judge Hears Arguments in Flood Case

NEW YORK, N. Y.—Curt Flood's petition for a temporary injunction in his attack against baseball's reserve clause was taken under advisement by U. S. District Judge Irving Ben Cooper February 3 after arguments by attorneys on the legal aspects of the case.

The judge, using pseudo-baseball language, thanked both sides for the clarity of their presentations and said, "You have thrown the ball to me and I hope I don't fluff it."

Flood, who has objected to being traded by the Cardinals to the Phillies, was represented by former U. S. Supreme Court Justice Arthur Goldberg. Attorney Mark Hughes spoke for the Phillies. Commissioner Bowie Kuhn was represented by Paul Porter of his legal staff.

## "Times Have Changed"

Goldberg told Judge Cooper that previous Supreme Court decisions upholding baseball's exemption from the antitrust laws "do not apply now because times have changed." He said the reserve clause not only violated federal and state antitrust laws, but also the 13th Amendment to the Con-

stitution, which prohibits "involuntary servitude."

Hughes replied that Flood was not being treated as "a slave or peon or as a chattel," considering that he was paid \$90,000 to play baseball for the Cardinals last season and was being offered the same salary by the Phillies.

## Labor Dispute Involved

Both baseball lawyers contended that past Supreme Court decisions, going back to Justice Oliver Wendell Holmes' famous ruling in 1922, still were valid. Hughes made the added point that a labor dispute was involved and that Flood's recourse was to the National Labor Relations Board and not to the federal court.

The Phillies' attorney asked Judge Cooper to deny the request for a temporary injunction on the basis that Flood had failed to make a showing that he would be irreparably damaged. In fact, he said, Flood could report to the Phillies for spring training and play in the club's games without prejudicing his case.

Goldberg, on the other hand, said Flood, who lives in St. Louis and has a business there, was willing

to play for the Cardinals, with or without a contract, until the court handed down a decision in the case.

If Flood were granted a temporary injunction, Hughes said, it would be "almost catastrophic" to the defendants. He asserted that the reserve clause had been in effect almost since the beginning of professional baseball and was necessary to preserve the integrity of the game.

## Football Doing Okay

Goldberg pointed out that football, boxing and the theater all have come under the federal antitrust laws and "they seem to be doing all right." He also called Judge Cooper's attention to the successful attack in Great Britain on a soccer reserve clause similar to baseball's and said, "They (the British soccer leagues) didn't seem to suffer any harm."

The Major League Baseball Players Association is supporting Flood in his suit. Goldberg made it clear in his presentation that Flood was not asking for abolition of the reserve clause but only for its modification to govern future dealings between the clubs and the players.