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Kuhn Warns of Chaos in 'Clause' Tampering

By LEONARD KOPPETT

NEW YORK, N. Y. — The main outlines of baseball's defense in Curt Flood's antitrust suit against the reserve clause system were made clear by Commissioner Bowie Kuhn, the first defense witness, on May 27 and 28.

The position seems to be:

1. The reserve system, as evolved, is essential to the operation of the game "as we know it."

2. History shows that when there was no fully developed reserve system, conditions were "chaotic" because players jumped from team to team, the economic position of clubs was unsound, and the public was not sure games weren't being fixed.

3. Proposed changes in the reserve system are objectionable on one or more of four counts: They undermine "the integrity of the game," they cause economic hardship, they are hard to make "workable," and they interfere with the goal of "even competition."

Players Gain Benefits

4. Under the present system, the safeguards and benefits players receive are considerable and have improved notably in recent years.

5. The considerations that made the U. S. Supreme Court rule, during the 1950s, that baseball had a continuing exemption from the anti-trust laws, still apply.

6. Any modifications that are

made should be arrived at by collective bargaining, not by legal challenge.

Kuhn's direct testimony went to these points, and so did the cross-examination of witnesses for Flood in the earlier part of the trial. On June 1, Charles (Chub) Feeney, National League president, testified along lines that roughly paralleled Kuhn's.

Kennedy on Stand

In completing the presentation of the plaintiff's case, Flood's lawyers called Walter Kennedy, commissioner of the National Basketball Association; Pete Rozelle, commissioner of the National Football League; Clarence Campbell, president of the National Hockey League; and Alan Eagleson, director of the National Hockey League Players Association, to show that the reserve systems in those sports were less restrictive than baseball's, but still permitted those sports to prosper.

Arthur Goldberg, who is running for governor of New York State, is chief counsel for Flood, but since the first three sessions most of the trial work has been done by Jay Topkis. Assisting Topkis were Max Gitter and Bill Iverson, of Goldberg's staff; Dick Moss, counsel for the Players' Association, which is backing Flood; and Allan Zerman of St. Louis, Flood's personal attorney.

The position taken by Flood's side, in resting its case was:

1. By all normal antitrust standards, the reserve system is illegal.

2. Whatever exemption baseball was given in the past, it should not have one in view of contemporary baseball economy, social philosophy and legal interpretations.

3. Baseball history of the 1870s, 1880s and 1890s is not a relevant guide to what would happen in the 1970s if the reserve rules were changed.

4. All attempts to negotiate a loosening of the reserve restrictions have been met with flat refusal by the owners.

Alternatives Cited

5. Many alternatives could be devised that would give the players more freedom, without undermining the profitability or stability of baseball.

The trial is expected to last into the week of June 8. American League President Joe Cronin, Bing Devine of the St. Louis Cardinals and John Gaherin, representative of the owners in labor negotiations, are expected to testify for the defense, and then Flood's side will be able to call rebuttal witnesses. There is no jury and an eventual decision will be handed down by Judge Irving Ben Cooper, with the losing side certain to appeal unless there is an out-of-court settlement.



COMMISSIONER BOWIE KUHN, accompanied by his attorney, arrives at Federal Court in New York City to testify in the Curt Flood case.