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Leonard Koppett

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# Next Move in Curt Flood Case: Judge Cooper to Sift Evidence

By LEONARD KOPPETT

NEW YORK, N. Y.—Long stretches of corroborative and technical testimony were the rule as the trial in Curt Flood's antitrust suit against the reserve clause system neared its completion. The case, being heard by Judge Irving Ben Cooper in Federal Court here, was expected to end its trial phase on Wednesday, June 10.

At that point, Judge Cooper will study the evidence, receive final arguments from both sides and make his decision—a process that usually takes a few weeks. Whatever he decides, it is likely that the losing side will appeal to the next higher court, which may then take a year or longer before considering the case. And, since a basic issue is a previous ruling of the U. S. Supreme Court, no definitive legal conclusion can be arrived at until the case reaches that court again.

## Will Flood Settle?

It is possible at any point, however, for Flood to settle out of court.

The week of June 1 was devoted to defense testimony designed to show that the present reserve system was both fair to all concerned and necessary for the economic health of the baseball business. Most of the cross-examination dealt with attempts to show that pro-

posed alternatives, giving players more freedom of choice, would be feasible without fatal consequences. and that the present system did put players at an inherent and illegal disadvantage.

## Devine on Stand

On June 2, the cross-examination of Charles S. (Chub) Feeney, National League president, was completed; Bing Devine of the Cardinals testified about his dealings with Flood; Joe Garagiola of the National Broadcasting Company got laughs in 13 minutes of direct examination but was left holding a bagful of jokes when the Flood lawyers declined to cross-examine, and Joe Cronin, American League president, testified about his lifelong experiences and beliefs with regard to the reserve clause.

On June 3, the witnesses were Frank Dale, part-owner of the Cincinnati Reds and of the football Bengals, and publisher of the Cincinnati Enquirer; John McHale, president of the Montreal Expos, and Robert O. Reynolds, part-owner of the California Angels.

On June 4, there was more testimony from Reynolds, and Ewing Kauffman, sole owner of the Kansas City Royals, gave his views. The only witness on June 5 was John Gaherin, the labor negotiator

for the owners, and the only witness on June 8 was Dr. John Clark Jr., of Arthur D. Little, Inc., a business analyst hired by baseball to do special research for this trial.

Feeney, Devine, Cronin and McHale defended the justice of the present system and called baseball "unique," but had to admit they had never been in any other business. Reynolds, Dale and Kauffman, who had wider business experience, also insisted baseball was different from any other field, including football, largely because of the "large investment" in developing players through a minor league system. Gaherin testified that he found the players had "equal" bargaining power with the owners.

## Cronin Red-Faced

Cronin had one embarrassing moment. He had extolled Clark Griffith as his teacher and friend as well as employer in Washington in the 1930s. When cross-examined by Jay Topkis, Cronin repeated his warm regard for the late Griffith's judgment.

"And you said he was one of the pioneers of the American League?" Topkis went on.

"Yes," said Cronin.

"But didn't you know, Mr. Cronin," Topkis asked, "that Clark Griffith jumped his National League reserve to come into the American League, in 1901?"

"No, sir," said Cronin, "I don't think I knew that."

"It's right here on page 39 of the Cellar Report," said Topkis, referring to the 1951 congressional hearings.

## Owners Testify

"Then it must be right," said Cronin.

Dale, McHale, Kauffman and Reynolds all said they would not have invested in baseball the way they did if not for the reserve system and their understanding that it had a Supreme Court exemption.

Dale said he was motivated by civic considerations to keep the Reds from leaving Cincinnati. He formed a group to buy the club from Bill DeWitt for about \$7 million in 1967. Kauffman paid about \$6 million for the expansion Royals in 1968.

McHale paid \$100,000 of his own money (and became liable for \$25,000 of borrowed money) for his 10 percent interest in the Expos, who had to pay \$10 million to enter the National League in 1969. When Reynolds and Gene Autry acquired the expansion Angels in 1960, the entry fee was about \$2 million.



Bowie Kuhn