

Curtis C. Flood

vs.

70 Civ. 202

Bowie K. Kuhn, et al

New York, June 1, 1970  
10:30 A.M.

(Trial resumed.)

THE COURT: Good morning. Please proceed.

MR. HUGHES: Your Honor, the defendant clubs  
and leagues call as their first witness the president of  
the National League, Mr. Charles S. Feeney.

C H A R L E S S. F E E N E Y, called as a witness  
by the defense, having been first duly sworn, testified  
as follows:

DIRECT EXAMINATION BY MR. HUGHES:

Q Mr. Feeney, are you the president of the National  
League?

A Yes.

Q And when did you become president?

A January 1, 1970.

Q Prior to that time were you connected with baseball  
in any way?

A Yes. I was vice-president of the San Francisco  
Giants.

Q Were you born and raised in the New York metropolitan area?

A Yes, I was born in Orange, New Jersey, in 1921, which is a suburb of New York City.

Q Would you briefly trace for his Honor your schooling and academic training?

A Yes. I graduated from Columbia high school in Maplewood, New Jersey, in 1939; I was in the class of 1943 at Dartmouth College but graduated in 1942 because of World War II; I was in the Navy for three and a half years. I then went to Fordham Law School and graduated in 1949 and took and passed the bar exam in 1949. However, I have never practiced law.

Q When were you first employed in baseball?

A In 1946.

Q So that you were going to law school while you were working in baseball, is that right?

A Yes. I went to law school in the mornings and reported to work with the Giants, the then New York Giants, in the afternoon.

Q What was the date when you first went to work for the Giants?

A It was in late March, 1946.

Q And thereafter did you remain with the Giants

continuously up to the time that you became the league president?

A Yes.

Q In various capacities?

A It was a family business, so I started off with the exalted title of vice-president, which in 1946 more or less meant do what we tell you, and then I guess eventually worked my way into the position of what really a vice-president is supposed to do and probably was in reality the general manager of the Giants from about 1952 on.

Q After you became the general manager of the Giants, did you accompany the team on the road trips?

A Yes. I would say in the last ten years I accompanied the team on at least two-thirds of the road trips that they took, plus being in spring training the entire time.

Q And were you thrown into close and daily contact with the players during that time?

A Yes, I was.

Q Would you say that your relations with them were friendly and cordial over the years?

A Yes I think they were very friendly and very cordial. I hope so, anyway.

Q By the way, you were with the Giants at the time

1 when they were here in New York as well as after they  
2 moved to San Francisco?

3 A Yes, sir.

4 Q As general manager of the Giants, what were your  
5 duties?

6 A Well, they were varied. Signing the players to  
7 contracts, in trading players' contracts, radio and tele-  
8 vision contracts, public relations, working with the farm  
9 system and obtaining new talent, etc.

10 Q Did the Giants have a farm system when you were  
11 with them?

12 A Yes.

13 Q Would you tell us what a farm system is?

14 A Well, a farm system is a group of minor league  
15 or National Association clubs where younger players who  
16 eventually, hopefully, will make the majors are being trained  
17 in their profession and acquiring the skills necessary to  
18 become major leaguers.

19 Q Specifically, what did the New York Giants'  
20 farm system consist of at the time you left them to become  
21 the league president?

22 A The San Francisco Giants.

23 Q The San Francisco Giants?

24 A I know it is tough for an old New Yorker. We had  
25

1 at that time a Triple A club in Phoenix, which is an owner-  
2 ship club, a Double A club in Amarillo, in the Texas  
3 League, which is also an ownership club, working agreements  
4 with two A clubs, Fresno, in the California League and  
5 Decatur in the Midwest League, and an ownership club in the  
6 Rookie League, Great Falls in the Pioneer League.  
7

8 Q Did you have working agreements with other clubs?

9 A No, just Decatur and Fresno.

10 Q And what are working agreements?

11 A Working agreements are agreements whereby although  
12 the clubs are owned locally and the profit, if any, is taken  
13 by the local owners, the major league clubs provide the  
14 playing talent, spring training, the salaries of the play-  
15 ing talent and other subsidies to help keep the minor  
16 league teams going.

End 1

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Q And referring to the Giants, can you give us some idea of the amounts spent on the farm system and the nature of the expenditure made by the Giants while you were with them?

A The farm system, the cost of what we called player replacement, was in excess of about a million dollars a year. That included farm system costs which were the losses that the Phoenix Club and the Amarillo Club might have plus the subsidies and salaries paid to the working agreement clubs, the cost of a scouting staff of approximately 45 people, salaries, expenses that they incurred in traveling around the country, looking at various free agent ballplayers, plus bonuses that were paid to ballplayers that were signed by the Giants or their farm system clubs.

Q You say these expenditures of this nature exceeded a million dollars a year?

A Yes, sir.

MR. TOPKIS: Could we have the time on that?

Excuse me.

THE COURT: Please.

Q Well, when did you become the league president?

A January 1, 1970.

Q And were you speaking, in your prior testimony, of the years immediately preceding that?

1  
2 A Yes, sir.

3 Q Do other clubs have farm systems?

4 A Yes. All the clubs in the major leagues, both the  
5 American and National, have farm systems.

6 Q What prompts clubs to have farm systems and expend  
7 these kinds of moneys in farm systems?

8 A Well, it is necessary in baseball to have a farm  
9 system to develop the talent who later appear in the major  
10 leagues. Unlike football and basketball, who can go readily  
11 to the colleges and sign a player who not only can play  
12 immediately, but who in some cases is a gate attraction,  
13 such as O.J. Simpson and Alcindor, the process in baseball  
14 is a far different one.

15 Q Tell us what the process is.

16 A Well, all right. The colleges, generally because,  
17 I guess, of the time that you spend in college, that is, the  
18 summer semester is off, do not in general have long baseball  
19 seasons, so that there is no real training ground nor, in  
20 general, is there any publicity. So when you sign a base-  
21 ball player, in general, even if you give him a large  
22 substantial bonus, it takes him a period of time in the  
23 minor leagues before he even becomes proficient enough to  
24 appear in the major leagues. Then when he does get to the  
25 major leagues, to his major league camp and to the major

1 league city, he is not recognized by the public as would be  
2 an O.J. Simpson as a star. It takes him time to develop  
3 the public recognition that the football and basketball people  
4 have built in with their relationships with the colleges,  
5 so of necessity you must have the farm system to develop  
6 players, so that you can continue playing major league base-  
7 ball, and that is why people are willing to invest these  
8 large sums in the farm system.

9  
10 Q Now, did you ever have occasion, while you were with  
11 the Giants, to negotiate with and sign young players to  
12 their initial contracts?

13 A Yes. That was not one of my primary duties. We  
14 have very competent scouting directors and scouts that in  
15 general did this, but on numerous occasions, particularly  
16 if the athlete was greatly desirable and in the area where  
17 we were, in the San Francisco area, I did negotiate.

18 Q And did you have any sort of procedure that you fol-  
19 lowed in handling negotiations with these young players?

20 A Yes.

21 Q Tell us about those.

22 A In general, you would go to the young man's home.  
23 His parents are present or his guardian, as the case may be.  
24 You discuss the terms of the contract. He indicates to you  
25 what he feels he needs. This is something that is negoti-

2 ated sometimes over a rather long period of time. Sometimes  
3 you can come to a meeting of the minds rather quickly. But  
4 it is a negotiating process.

5 Q And that is the procedure you followed?

6 A Yes.

7 Q Now, again referring to these young players, in your  
8 experience would you say that there are relatively few of these  
9 young players who sign their initial contracts who are in  
10 really great demand?

11 A Yes, relatively few that have reached the potential  
12 at that time where the demand is very great, yes; I would say  
13 maybe between 15 and 20 in each year.

14 Q Out of approximately how many that are signed by the  
15 various major league clubs?

16 A Approximately 1200.

17 Q And while you were in the Giant organization -- and  
18 I am focusing now mainly on the last four or five years you  
19 were with them -- about how many players did the Giants sign  
20 to initial contracts a year on an average?

21 A It varies, of course. I would say probably between  
22 50 and 70.

23 Q Was this figure, this range, about the same both  
24 before and after the so-called free agent draft?

25 A Yes, approximately the same.

Q Do I understand that some of these players were signed to major league contracts and some to minor league contracts?

A The great majority, of course, are signed to minor league contracts. Occasionally someone would be signed to a major league contract, yes.

Q After the free agent draft went into effect -- by the way, when was that, or approximately when?

A I believe 1965.

Q After it went into effect, were some of the players signed without going through the draft?

A Oh, yes. I would say perhaps -- they would go through -- let me -- would you rephrase that question or let me hear that question?

MR. TOPKIS: If your Honor please, this figure is in evidence. We have the figure supplied in the form of an exhibit. I see no reason to trouble this witness to produce his best recollection of it.

MR. HUGHES: Your Honor, it is part of his general recollection and experience.

THE COURT: I will take it.

Q My question to you is, were some of the players signed without going through the draft?

A The players after the free agent draft would always

go through the draft. However, there are players that are not drafted by major league clubs, and they become eligible to be signed with any major league club and, yes, there are quite a large amount of these; I would say about 50-50.

Q That was true with the Giants?

A Yes.

Q About 50-50?

A Yes.

Q Were bonuses paid to players for signing both before and after the draft?

A Yes.

Q Were all the players paid bonuses before the free agent draft?

A No.

Q Before the free agent draft, about how many players would you say on an average a year received substantial bonuses for signing an initial contract?

MR. TOPKIS: Objection, unless the term "substantial" is given some finite meaning.

THE COURT: I think there is substance to the objection.

Objection sustained.

Q Before the free agent draft, you say you did pay bonuses to the players for signing, is that correct?

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A Yes.

Q Was there a range of figures in the signing of free agents, a high to a low, in those instances where you did pay bonuses?

A Yes, there was a high and a low, yes.

Q And can you give what the low figure was prior to the free agent draft? About, approximately.

A Well, I would say -- there were many players, I understand, who signed for nothing.

Q Nothing, that's right.

A And except for the amount of salary that they were paid.

Q I understand.

A There were players, I would guess, or would say, that got around a \$500 bonus, as little as \$500 bonus to sign. There were others, of course, who got in excess of a hundred thousand to sign.

Is that what you mean?

Q Yes. In any one year how many players would you say prior to the free agent draft were offered bonuses of as much as \$100,000?

MR. TOPKIS: Is this the New York and San Francisco Giants or is it all of baseball? May we know that?

THE COURT: Yes, please state which you mean.

MR. HUGHES: I am referring to the New York Giants.

MR. TOPKIS: And the San Francisco Giants?

MR. HUGHES: Yes.

A In any one year in excess of \$100,000?

Q Yes.

A No more than one, I would say.

Q Are you in a position to tell us whether as much as \$100,000 was paid by other clubs to sign players in the three or four years immediately preceding the time that you became president of the League?

A Yes, I think there were. The figures were announced and we were in negotiations with the players and I would say that they received over 100,000 -- I'd be sure that they received over \$100,000.

Q Players who signed with other clubs?

A Yes.

Q How many a year would you say got \$100,000 in the

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Feeney-direct

2 National League?

3 A Of course, that varies. I would say three or  
4 four, perhaps, maybe more.

5 Q Would you say that in those instances, then, --  
6 I am not referring to the Giants before the draft -- that  
7 in those instances where bonuses were paid they range from  
8 a low of about \$500 to as much as \$100,000?

9 A Yes, or over.

10 THE COURT: Mr. Hughes, I know that it is hard  
11 when you have a lot of questions, but would you please try  
12 a little harder to get that well-modulated voice of yours  
13 to go up a little higher and then the witness will try to  
14 match it.

15 Q Again referring to the Giants, Mr. Feeney, during  
16 the period when you were associated with them, did the total  
17 amount paid by way of bonuses change significantly after  
18 the free agent draft?

19 A No.

20 THE COURT: Thank you, that is very helpful.

21 Q Since the free agent draft, have more players  
22 received bonuses than before the free agent draft?

23 A As far as the Giants were concerned, I'd say  
24 more each year, yes.  
25

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Q Do you have an experience that you can draw on so as to tell us whether that would be true generally of the clubs in the National League?

A I would think it would be generally true because when you draft a player, his rights to sign him, the player immediately becomes aware of his value and in almost all instances requests a bonus to sign him. Of course, they vary as to the number in which you draft him. The more desirable players are obviously drafted higher than the less desirable players, but I would say 80 per cent of the players signed, at least by the Giants, receive bonuses, and I think the figure was probably even higher.

Q For the most part after the free agent draft were the individual bonuses lower than they had been prior to the free agent draft?

A Not necessarily. The players that were selected very high, Number 1 or Number 2, as I understand -- unfortunately we kept finishing second so we drafted either seven-teenth and eighteenth each year, so we did not get the opportunity to draft a Rick Munday or a Reggie Jackson, or a Sal Bando, or a Chillicothe, or a player like that, who I understand received very substantial bonuses. However, we did draft one young man and offered him \$100,000, which

1 he turned down and went to college.

2 Q Would it be correct to say that after the free  
3 agent draft as far as the Giants were concerned the bonuses  
4 tended to be lower, but the amount which you spent on bonuses  
5 remained pretty much the same figure?

6 A Yes.

7 MR. TOPKIS: Could I have that question and  
8 answer back, please?

9 THE COURT: Surely. Mr. Court Reporter, would you  
10 be good enough.

11 (Record read.)

12 Q In connection with this whole question of bonuses,  
13 is there such a thing as a college scholarship arrangement  
14 of some kind?

15 A Yes.

16 Q Would you tell his Honor about that?

17 A Yes. In many contracts when you sign a free  
18 agent you provide money for his college education up to  
19 eight semesters. This money is paid out through the  
20 Commissioner's office. The player is guaranteed this college  
21 scholarship money whether or not he plays out or whether  
22 he leaves the ball club or not.

23 Q In signing the new players, is this one of the  
24 inducements that you offer him, participation in this  
25

1 scholarship fund?

2  
3 A Yes, it is.

4 MR. HUGHES: There has been a great deal of  
5 discussion and mention of the free agent draft. With your  
6 Honor's permission, I would like to take Exhibit 6 and  
7 I would like the witness to have a copy of it.

8 THE COURT: Certainly.

9 (Document handed to witness.)

10 MR. HUGHES: Your Honor, I think it would be  
11 better, because in the interest of saving time we have marked  
12 certain sections here so that it will be easy for the  
13 witness.

14 THE COURT: Very good.

15 Q And now, Mr. Feeney, will you tell his Honor  
16 in your own way and using Exhibit 6 as a guide, tell us what  
17 the free agent draft is and how it operates.

18 A Let me try to do that before consulting the book,  
19 if I can.

20 Q By all means.

21 A The free agent draft is a draft of young players  
22 who are not signed to professional contracts that takes  
23 place twice annually, once in June and once in January.  
24 Players become eligible for this draft in various ways,  
25 generally by graduating from high school, by graduating

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Feeney-direct

from college in some cases, and by finishing up their American Legion play. They are drafted or the draft occurs in June and it is done in reverse order of the finish of the teams in an effort to make the teams more comparable in their play.

When a player is drafted, the club that drafts him has six months to sign him between the June and January drafts. Players that were eligible for the draft and are not drafted are eligible to sign with any club in baseball. If a player is drafted and not signed, at the following draft he becomes eligible for a secondary phase in the draft. This secondary phase is decided on by lot as far as the order of the clubs is concerned when they draft. The player may then be drafted by any other club in baseball or, if he gives his consent, to be redrafted by the original club, which happens in some instances, he may be redrafted by that club.

If he is not drafted again in that secondary phase, he then again becomes eligible to be signed by any club in baseball.

Did you have any --

Q In connection with that explanation and just so that the record will be complete, would you just turn to

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Feeney-direct

Exhibit 6, Major Rule 4, which begins on Page 518, and indicate for the record the significant portions of Major League Rule 4 to which you have alluded in connection with your description of how the free agent draft operates?

I think perhaps if you look at 4(b) as a starter.

A Yes.

THE COURT: Does 4(b) apply, yes or no?

THE WITNESS: Yes.

THE COURT: What is next?

Q 4(b) is Selection Rights, your Honor.

A 4(d), Selection Meetings, 4(d)(1), Regular and Secondary Phases, 4(h), Club Priorities, 4(i), Effect of Selection On Players.

There may be other things.

Q Do you know of any recent instances of a player giving his consent to being drafted by the same club a second time?

A Yes, that has happened in a numerous amount of cases. I think one of the ones that might be a little embarrassing is that the Giants drafted Gary Gentry twice. He had given us his consent twice and he is now a member of the New York Mets.

Q One of their star pitchers?

A Yes.

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Q Just so that I am clear about this, if a player goes through the secondary phase of the free agent draft as you have described it, and no one drafts him, can he then be signed by any other club?

A Yes. There are many cases of players that have gone through -- that have been drafted by one club and been redrafted in the secondary phase, that are now playing baseball in the major leagues. Andy Messersmith with the Angels, Tom Murphy with the Angels, Eddie Leon, who is a short-stop for the Indians, Gary Gentry, and quite a few others.

Q Are these names you are giving us names of players who went through the free agent draft and were drafted by someone or who weren't drafted, and then signed as free agents?

A They were people who went through the free agent draft, were drafted first and then redrafted by someone else.

Q And signed?

A And signed.

Q As general manager of the Giants, did you negotiate the contract renewal with the Giant players?

A Yes.

Q Over what period of time would you say you performed that function?

1  
2 A Starting, I guess, about in 1951 or the early  
3 '50's, I did it partially, and then in the late '50's,  
4 negotiated all the contracts with the exception of Willie  
5 Mays, who Mr. Stoneham negotiated with, and I did Willie  
6 Mays the last few years.

7 Q Were these real negotiations or were they merely  
8 perfunctory?

9 MR. TOPKIS: Objection, your Honor.

10 MR. HUGHES: I withdraw the question.

11 Q Will you please describe the process of negotia-  
12 tion between you and the players as you actually went through  
13 it and experienced it?

14 MR. TOPKIS: Objection, unless we have a descrip-  
15 tion of a negotiation with some particular player.

16 THE COURT: No. I think he is allowed to  
17 give it to us generally first, and then either you or Mr.  
18 Hughes can confront the witness with specific examples. We  
19 will take it.

20 What was your general practice, you yourself?

21 THE WITNESS: The contracts must be sent out  
22 each year on January 15. After the season or between  
23 the end of the season, and January 15, we discuss what we  
24 felt the players' contribution had been in terms of his  
25 playing the season before and his longevity on the ball

club and try to strike what we felt was a fair figure. When I say "we," I generally mean Mr. Stoneham, Carl Hubbell, our farm director, who sees most of the games, and the manager. When we arrived at what we felt was a fair figure in the case of the ballplayers living in the area and in the case of some players who didn't live in the area who we tried to see before they left for their homes, we would sit down and have a face-to-face discussion with the players on their next year's salary. These negotiations were conducted in a friendly way. The players certainly stated their side of the case. We negotiated a figure which we ended up being fair to everybody because the figure that we thought was fair originally sometimes the players didn't feel was fair and the figure was revised after their negotiation.

In the case of the players not living in the area, we would send them a contract. Oftentimes they would send it back signed. If they did not agree with the figure they would usually send it back unsigned with a letter of explanation as to why they felt the figure was low. At that time we would make an effort to contact them by phone.

Since in some cases it was difficult since some players were playing in the Caribbean Leagues during the

1  
2 winter, so usually those negotiations were conducted by.  
3 mail. Otherwise we conduct the negotiations to a  
4 large extent on the telephone and they were very real negotia-  
5 tions. Ball players are very good negotiators, contrary  
6 to what I heard here earlier.

7 Q In these negotiations, was it part of your  
8 attitude and approach to attempt to satisfy the ballplayer?

9 A Oh, yes.

10 Q What prompted you to do that?

11 A A dissatisfied player is not very much of an  
12 asset to the ball club. A satisfied player is a much  
13 better ballplayer.

14 Q Did you ever trade or option a player because  
15 you and the player couldn't come to terms?

16 A No.

17 Q In your experience did any player ever object  
18 to signing the Uniform Player's Contract?

19 A No.

20 Q Specifically, did any player ever raise the ques-  
21 tion of Section 6(A), which is the assignment provision  
22 of that contract?

23 A No.

24 Q Did anyone ever object to the renewal provisions  
25

1 of Section 10(A) of the Uniform Player's Contract?

2 A No.

3 Q Did any player ever ask for a contract for more  
4 than one year?

5 A Yes.

6 Q In your experience and recollection, how many  
7 such players were there?

8 A There were four that I recall.

9 Q Who asked for contracts for longer than a period  
10 of one year?

11 A Yes.

12 Q Did they get contracts for a period longer than  
13 one year?

14 A Yes, they did.

15 Q What was the term of their contracts?

16 A In all cases, two years.

17 Q Under the rules, could you give them a contract  
18 for two years?

19 A Yes.

20 Q In your experience, did a player ever ask to have  
21 his contract assigned to another club?

22 A Yes.

23 Q What players do you recall who asked that their  
24 contracts be assigned to another club?  
25

1  
2 A In recent years we had a young catcher named  
3 Randy Hundley, who we gave a substantial bonus to, inci-  
4 dentally, but who was playing behind at that time Tom  
5 Haller, who was our regular catcher. We also had two other  
6 young catchers, Bob Barton and Dick Dietz at that time,  
7 and Randy Hundley did not feel that he would get an oppor-  
8 tunity to play with San Francisco. He was anxious to play  
9 regularly and he asked to be traded, which we did to the  
10 Chicago Cubs, unfortunately.

11 Q What about Bob Barton?

12 A Bob Barton was in the same kind of a situation.  
13 He was one of three catchers on the Giants. He was there  
14 with Dick Dietz and then Jack Hyatt, who is also a catcher.  
15 He did not feel he was being given the opportunity. He came  
16 to me in the spring of '69 and wanted to be traded. At  
17 that time I told him that he was very definitely a part of  
18 the ball club, that he was contending for the catcher's job  
19 with Dietz and Hyatt, that he had a chance to make the ball  
20 club, that I thought he could make it and would, but I told  
21 him that if he felt the same way in the fall, which was  
22 in the fall of '69, I thought maybe we would get in the  
23 World Series and he would be happier with us, that we would  
24 do everything we could to trade his contract. And that  
25 was accomplished just two days after I left the ball club.

1  
2 Q What prompted you to accede to the wishes of  
3 Bob Barton and Randy Hundley when they made these requests?

4 A They were obviously unhappy with the ball club.  
5 There was merit in their request that they be given an  
6 opportunity to catch regularly. In the case of Hundley  
7 with Tom Haller there, Tom was going to catch 130 games or  
8 so. We did have adequate backup catchers. So these are  
9 the factors that were involved. And the same is true with  
10 Barton.

11 Q Mr. Feeney, did you ever have the task of inform-  
12 ing a player that his contract had been assigned to another  
13 major league club?

14 A Yes.

15 Q Did you ever have the task of informing a player  
16 that his contract had been assigned to a minor league club?

17 A Yes.

18 Q How did you go about it?

19 A Normally, you try to -- particularly in on-season,  
20 you talk to the player personally and tell him he has been  
21 assigned, and in the case of players being assigned to the  
22 minor leagues, you talk to them in spring training and  
23 explain the reasons why they are going to the minor league.

24 I didn't talk to all our players being sent  
25 down because in lots of cases the manager wanted to talk to

1  
2 them and explain the situation. In the off-season, you  
3 try to contact the player by telephone. If he does live  
4 in the area you can talk to him in person, but we try to  
5 tell the players in advance or before the announcement is  
6 made that their contracts have been assigned.

7 Q I suppose the reactions of players vary?

8 A Yes. Naturally, players were generally unhappy  
9 in being sent to the minors. However, there are many  
10 young players that realize that they needed more training  
11 and were happy to go where they could play regularly and  
12 get to the major league faster. In the case of major league  
13 lateral transfers, some players were unhappy, others  
14 like Barton and Hundley were glad. You know, most ball-  
15 players don't live in the city that they play in, or in the  
16 suburbs.

17 I kind of checked it out in the green book, and  
18 of the 40 players on each major league roster this year,  
19 384 lived quite a ways away from the city that they played  
20 in. About 170 live in the suburbs or in the city. So it  
21 really doesn't matter to a great many players which city  
22 they are going to play in.  
23

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25  
End 3

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2 Q Will you tell his Honor in a general way what your  
3 duties are as the president of the National League?

4 A It is a rather new job. We service the National  
5 League clubs, have public relations for the league, prepare  
6 schedules, in charge of the umpires, in charge of the games  
7 as they are played, in charge of rescheduling, preside at  
8 National League meetings and as a member of the Player  
9 Relations Committee since January I have been meeting with  
10 the Players Association representatives.

11 Q Prior to becoming the president, did you participate  
12 in any of the collective bargaining discussions that we have  
13 heard so much about during the course of this trial?

14 A No, I did not.

15 Q And since then have you been attending those sessions?

16 A Yes, since the 1st of January.

17 Q Mr. Feeney, are you familiar with the reserve system?

18 A Yes, I think I am.

19 Q Will you tell us what it is briefly and in your own  
20 way?

21 MR. TOPKIS: Objection, your Honor. I believe the  
22 record is more than adequate on that subject and indeed from  
23 witnesses called by the defendants.

24 THE COURT: You are right, except that since there are  
25 going to be questions propounded to that issue, we should know

what this particular witness understands by it.

Objection overruled.

A The reserve system is a part of the uniform player contract and also in the major league rules, which involves the reservation of a player to one club, the assignment provisions in the major league contract, the limitation of rosters to 40 players which, when the 40-player roster is made, these players cannot negotiate with other clubs.

Added to that are rules that provide safeguards for the players because --

Q Before you come to safeguards, Major League Rule 3 G, which prevents negotiations between a player and any other club except the one to which he is reserved or under contract, would you say that that is part of the reserve system as you know it and understand it?

A Yes. I indicated that. That is the tampering rule, to prevent other ball clubs from tampering with players that are reserved.

Q I interrupted you. You started to talk about safeguards and compensation and restrictions on the reserve system.

A Well, there are many safeguards for the player. One is the baseball draft, which is distinguished from the free agent draft. This provides that a player who after

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2-1/2 years service in the minor leagues, if his contract is not brought up to the major league club, he can be drafted by any other club in baseball which provides for a player's advancement in his profession. This draft takes place in the latter part of November or early in December.

Another safeguard is the waiver rules which provide that once a player has been brought up to a major league club, his contract cannot be sent out right again to a minor league club until waivers have been asked on him, which means that his name is submitted to the other 23 clubs, and they can claim his contract for \$20,000 before he can be sent out outright.

After three years in the major leagues, he cannot be optioned out without waivers being obtained upon him.

There are other safeguards which are financial, such as the minimum salary, which is now going to be raised to \$12,000 for 1970 if the agreement between the clubs and the players is ratified by both parties. The fact that he cannot be cut more than a certain amount, which is, now he cannot be cut more than 20 per cent on his contract; that has been revised so he can be cut no more than 20 per cent in one year and no more than 30 per cent over a period of two years.

The contract provides for severance pay. Under the new contract he would receive 30 days severance pay retro-

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actively if he had been released in spring training, 60 days in season severance pay through the 1970 and '71 season, 60 days severance pay until May 15th in the 1972 season, and then the full amount of his contract if he should be released after 1972.

There is also a provision that an eight-year player cannot be sent to a minor league club without his consent.

Q Now, when you referred to the draft and you distinguished it from the free agent draft, is that what is commonly referred to as the minor league draft?

A Yes, sir. I think they prefer to call it the National Association draft, but it is the minor league draft.

Q That is the one that is covered by Major League Rule 5?

A Yes.

Q The so-called Rule 5 draft. Now, you also made reference in your testimony to the fact that under certain circumstances a player could not be optioned out. Will you explain to his Honor what you mean by the term "optioned out"?

A Your Honor, each club has a 40-man reserve list, as we have indicated. However, during the season each club is allowed to carry only 25 active players until the 31st of August. Therefore, if they are up to their 40-man reserve list, they must option 15 players to their minor league sys-

tem. These are generally younger players who are still learning the ropes. They get their full salary for the year, their full contract salary, even though they are optioned to the minor leagues. However, after they have been on a major league roster for three years they cannot be optioned out, no one can be optioned out without having waivers obtained, and you cannot be optioned out in any case more than three times when you get to the major leagues.

Q Mr. Feeney, you have told us what your understanding of the reserve system is. Based upon your experience, in your opinion are these provisions that you reviewed for us necessary to the effective operation of organized baseball?

A Yes, they are.

Q And while you are about it, what are the objectives to be achieved by this series of rules and regulations?

A Well, one of the objectives is to preserve the integrity of the game. By that I mean if, for example, a player was going to be a free agent of his own volition at the end of the season, and in the heat of the pennant race made a costly error which cost his team a game and the pennant, and then the next spring appeared on that other team, even though the error was made inadvertently, I think public confidence would be shattered. This is one of the reasons.

The other, another reason is to even competition.

1 If a player of his own volition could become a free agent at  
2 the end of a season, the more wealthy teams in the big leagues  
3 would obviously have an advantage in signing him, which would  
4 eventually break down the competition in baseball. If  
5 the competition broke down far enough, it would probably  
6 mean that the weaker teams would no longer be able to compete  
7 financially and probably might go bankrupt.

8  
9 It is also an inducement for people to invest  
10 large sums of money both in baseball and in the farm system.  
11 If these investments were not made in the farm system, to  
12 bring along baseball players to play in the big leagues, one,  
13 we would lose the talent that is coming in, and two, the minor  
14 leagues, as we know them, would probably cease to exist and  
15 towns now that have baseball teams would no longer have them  
16 because the minor leagues would be the first to go under  
17 if this system of bringing baseball players along, which the  
18 major leagues are subsidizing, was not continued.

19 Q You have spoken about player development. How about  
20 team development?

21 A Well, by player development I meant team develop-  
22 ment. You have got to obviously bring the players along to  
23 make your major league ball clubs.

24 Q Now, Mr. Feeney, did these provisions of the system  
25 as you have described it achieve these objectives, in your

opinion, with reasonable regard for and accommodation of the rights of the club, the player and the interests of the fans?

A Yes, I believe they do.

Q And were you here when Commissioner Kuhn testified concerning the reserve system and the reasons for it?

A Yes, I was.

MR. HUGHES: Your Honor, without going through this whole rigamarole again, I was going to ask:

Q Do you agree with his testimony and his explanation?

THE COURT: If I may interrupt, it is quite generally understood that when the question is asked, "Were you here when so and so testified," you are not only trying to get an answer that the witness was actually physically in the courtroom, but it carries with it the implication that he heard everything.

MR. HUGHES: I agree.

THE COURT: Therefore, if you are going to put the question that you propose, I would recommend that you first get from the witness whether he heard every question and heard every answer.

Q Were you following the Commissioner's testimony?

A Yes, with interest.

Q And did you hear what he had to say concerning the reserve system and the reason why he thought it was necessary

to the operation of organized baseball?

A Yes, I did.

Q Do you agree with his reasons?

A Yes, I do.

Q Do you have anything to add to what he said?

THE COURT: On that score.

THE WITNESS: Yes.

THE COURT: On that score.

Q On that score.

A I think my earlier answer on the reasons will speak for itself. However, I do feel that as far as my experience is concerned, that I would like to maybe emphasize this again, that the negotiations between the players and the clubs are very real negotiations. The club needs the player just as much as the player needs the club. You really have no idea how much, what the need is for a second baseman, or a right fielder or whatever the play is, and so the negotiations are really very real negotiations.

MR. HUGHES: Your Honor, could we take a break at this time?

THE COURT: We are going to take a recess for a few minutes and, gentlemen, I would like you to carry on to at least 1 o'clock. I have another engagement that I must take care of, and we won't be able to continue until 2:45.

so let's go forward until 1 o'clock or a little after 1, which ever suits your convenience, and then we will resume at 2:45.

Will you announce a short recess.

THE CLERK: Short recess. All rise.

(Recess.)

THE COURT: Please proceed.

BY MR. HUGHES:

Q Mr. Feeney, were you in court when Mr. Miller testified as a witness for the plaintiff?

A Yes, I was.

Q Did you hear his testimony?

A Yes, I did.

Q And do you recall his testimony in which he discussed various proposals for changes in the reserve system?

A Yes.

Q Do you recall one of his proposals was, in substance, that a club should have the right to a player's services for a period of some specified years instead of for his entire career, and that the player should then have a right to negotiate with any club, but with the proviso that the original club would have a first refusal, that is, an opportunity to meet the bid of the best bidder for the player's services; do you remember his testifying to that general effect?

A Yes.

1  
2 Q What in your opinion would be the effect of such a  
3 rule on organized baseball?

4 A Well, this is actually just what amounts to a  
5 watered down version of everybody being a free agent. For  
6 example, in 1970, in the National League, there will be 23  
7 players that will become eight-year men, and I don't know what  
8 the figure is in the American League, but I would imagine it  
9 is in that area. From a point of view of integrity, the same  
10 rule would apply, that if one of these men, if the public knew  
11 one of these men could be free of his own volition and he ap-  
12 peared on a competing team that defeated his team the next  
13 year, you would have that problem, and you would also have  
14 the problem of loss of competition because the difference  
15 between a really great team, a team that would win the great  
16 preponderance of the games, could be only one or two or three  
17 players. If they signed three of these players, say the Mets  
18 who were obviously in a better position to sign a player than,  
19 say, San Diego, the Mets are going to draw two million people;  
20 San Diego is going to draw seven hundred, eight hundred thousand,  
21 hopefully more; so it would have the same effect on competition  
22 as we indicated earlier, if everybody were a free agent.  
23  
24  
25

1 Q This suggestion contemplates a period of some  
2 period of years when a player would have this freedom to  
3 negotiate. In the National League -- let's take a period  
4 of eight years, for example -- in the National League how  
5 many players would reach the status of being in the League  
6 for eight years in the 1970 season?

7 A I already indicated there are 23.

8 Q From the standpoint of the players themselves,  
9 what about the player who offers his services to the other  
10 clubs after this assumed period and nobody wants him? What  
11 is his status?

12 A I wouldn't -- if he wanted to leave his club  
13 and then came back, I don't think he'd be in as good a  
14 position as if he were going to negotiate his contract orig-  
15 inally. That would be my guess. Of course, it never  
16 happened.

17 Q Mr. Miller also testified, and I quote, and  
18 this is Page 256, your Honor:

19 "...it would also be possible to prevent the so-  
20 called wealthiest club from garnering all the talent by  
21 establishing a system that is not perfect but obviously  
22 better than the present one and agree that no one club  
23 or three or four could sign more than X number of such  
24 free agents in any given period of time, thereby preventing  
25

any domination of all the talent by a club or a group of clubs."

In your opinion, what would be the effect of such a proposal, having in mind these four objectives that you told us are the objectives to achieve in organized baseball?

A I frankly don't understand that proposal as clearly as I might. I will try to answer it as to what I think it means.

I gather it means that a club could only sign so many players if they were free agents. If this is the case and a larger number of free agents became free agents than were allowed to be signed by the clubs, it would not be fair at all, obviously, to the free agents that were going to be left out and had no opportunity to sign with anybody.

If it means that only some clubs each year could sign players, I don't know how you would select those clubs or pick them out or what system you would use. I am not really clear on that proposal at all.

Q Under this proposal, suppose one club in a given year had five or six players reach the number of years of service necessary for this proposed change to function. What would happen to that club?

A Obviously all these proposals--we have talked on the basis of the club that was going to get players --

--Obviously all these proposals have the drawback of bleeding a club that loses the players. It could be in certain years that some club could have a greater preponderance of players that were eligible to become free agents and would lose all those players. It works both ways. You can strengthen a club or it is true the addition of one or two players, if they are great players, makes a tremendous difference, or you can take away from a club five or six players that would put them in a position of being a very weak club.

Q Under this proposal --

A Either one of the two proposals.

Q Under this proposal it would appear that is exactly what could happen to a club, is that correct?

A It could happen, yes.

Q Mr. Miller also testified at Page 257 about "The possibility of a salary progression, year by year, a minimum salary progression that would have as its purpose making it too expensive for a club to pay that kind of a salary and option the recipient to the minors or keep him on the bench and thereby encouraging him to move to a club where his talents could be utilized."

What is your opinion on the effect of that proposal?

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2 A We have a minimum salary now in the first year.  
3 I would think that any salary minimums would be negotiated  
4 by collective bargaining. However, it is a difficult  
5 proposal to analyze. If the salaries were made -- the salary  
6 position were made too low, obviously the player wouldn't  
7 move. If they were made too high, the players that would  
8 be the ones that were not signed would be the weaker players  
9 because obviously if it were too high the club would not  
10 want to pay the player this amount. He would be in the  
11 position probably of trying to sell his services every year  
12 and might not be successful. So it has those drawbacks.

13 Q Mr. Miller also proposed, at Page 257 of the  
14 transcript, that "It is conceivable to have a maximum  
15 reservation list which is less than the active roster."

16 First let me ask you what you understand that  
17 proposal to mean?

18 A I understand it to mean that the active roster  
19 in the major leagues, the active player list, is 25  
20 players, and obviously a lesser number than that would be  
21 a number under 25.

22 Q And he makes reference to a maximum reservation  
23 list. What is the reservation list at the present time?

24 A The maximum reservation list is 40 at the  
25 present time but that --

1  
2 Q Excuse me. I didn't mean to interrupt you.

3 A But the active list is 25 players because those  
4 are the players playing. I gather that is what Mr. Miller  
5 meant.

6 Q So his proposal is to have a reduction so that  
7 the maximum number of players would be something less than  
8 the present active roster of 25 players, is that the way  
9 you interpret it?

10 A Yes.

11 Q So interpreted, what would be the effect of that  
12 proposal?

13 A It again would have the effect of putting the  
14 weaker players out because obviously the clubs would reserve  
15 their stronger players. It also would, I think, have the  
16 effect of being very harmful to the minor leagues because  
17 you wouldn't want to develop players that you couldn't keep  
18 and you probably, if you had a reservation list less than  
19 the active list, you wouldn't be able to reserve players  
20 that were future players that you had on option for the  
21 two or three years that are going to be major league players  
22 at a later date.

23 Q You say it would adversely affect the farm  
24 system operations?

25 A Yes.

1 Q He has also suggested the possibility of  
2 competitive leagues. Do you recall his testifying to that  
3 effect?  
4

5 A Yes.

6 Q What, in your opinion, would be the result of  
7 the establishment of two separate leagues to compete for  
8 players?

9 A The history not only in baseball but in all sports  
10 is that is a disaster, that sooner or later one of the  
11 leagues has to give or they get together and live as one.  
12 When this competition starts, the weaker eventually would  
13 go under.

14 Q Mr. Miller also suggested salary arbitration.  
15 What is your view of the feasibility of salary arbitration?

16 A This is a very difficult situation for any  
17 arbitrator because you can't judge a player strictly by his  
18 batting average or his home run total. There are lots of  
19 things players do to help win games that are not reflected  
20 in averages, and to see and know what he does you must  
21 be there and observe it. I think the players and the  
22 people that are negotiating with them at the present time  
23 are in a much better position to negotiate and know exactly  
24 what they are negotiating about than an arbitrator. Also  
25 I think you would end up having an arm's length situation

1 between the players and management with arbitration. I  
2 think that you would probably find yourself in a situation  
3 where the player rated his services very much higher than  
4 he really thought he was going to get and maybe management  
5 rated the services lower than they really felt because  
6 they knew arbitration was going to get in the picture.  
7

8 I don't think it would be a good thing as far  
9 as relations between clubs and players are concerned at all.

10 Q In your opinion, is a good rapport between the  
11 players and the clubs an important consideration?

12 A Absolutely. As we said earlier, the happier  
13 players and satisfied players are more likely to win pennants  
14 and win ball games.

15 Q In your opinion, would salary arbitration tend  
16 to affect that good rapport between players and clubs?

17 A Yes, it could.

18 Q Mr. Feeney, during the trial from time to time  
19 there have been references to the term "bench warmer," and  
20 I think Mr. Robinson referred to them as "The guys who sit  
21 on the bench," and they are apparently referring to players  
22 who are not regularly in the starting lineup of the team.

23 In your opinion, does the term "bench warmer,"  
24 or "Guys who sit on the bench," convey a misleading im-  
25 pression of this group of players?

2           A       Yes, to the extent that it takes a full team  
3 to win, actually. You need substitute players. Today  
4 the substitute player more than likely appears in the game  
5 on a day-to-day basis, although he may not be in the  
6 starting lineup. You need relief pitchers, you need  
7 defensive outfielders, you need extra catchers, pinch-  
8 hitters, you need players that can step in in case of an  
9 injury. We have had involved in baseball in recent years  
10 what they call a platoon system where certain hitters hit  
11 against left-handed pitchers and certain hitters hit against  
12 right-handed pitchers. All these players are part of a cog  
13 that makes the whole. There are some that eventually will  
14 be regulars on that ball club that are working their way  
15 up to that position, but at the time do a good job and  
16 are helpful as parttime players.

17               Really there is no such thing as a fellow who just  
18 sits on the bench and doesn't play. As a matter of fact,  
19 if you just look at the box score you can see nine men in  
20 a box score is an unusual thing today. It is usually  
21 15 or 16 that get in a game each day.

22           Q       Mr. Robinson, when he was testifying, said that he  
23 felt that under the reserve system players were kept on  
24 the bench or in the minor leagues who were capable of  
25

playing regularly on major league teams.

What is your opinion regarding this criticism  
made by Mr. Robinson?

A        It may be true in isolated cases.    However, today ballplayers are in great demand. The ballplayer normally advances perhaps even more quickly to a position of being a regular than he should.    He may be rushed along rather than stay in the minors. Also, a player may be a bench-warmer or a substitute on a team or not a starter for a while, but eventually he will either be a starter on that team or get his opportunity with some other club as a regular.

Q Mr. Robinson cited the cases of Eddie Miksis and Don Zimmer and Don Hoak of the Dodgers as instances where he thought the player didn't have the opportunity to move up.

Were you familiar with the Dodger Club in the years of Mr. Robinson and these players to whom he referred?

A Yes, I was.

Q Do you have a knowledge of the skills and the careers of each of these three players?

A Yes, I do.

Q Would you take them one by one. Take Miksis and tell his Honor about Mr. Miksis, his baseball career

1 and his skills as you were aware of them.

2  
3 A Well, Eddie Miksis was a young player, infielder,  
4 that came to the Dodgers during the war years. He came  
5 to them at a very early age. They always -- the Dodgers  
6 felt that he had ability. He was an asset to their ball  
7 club. As a matter of fact, in a famous World Series game  
8 in which a Yankee pitcher was pitching a no-hitter, Eddie  
9 Miksis was a pitch runner and scored the winning run on  
10 the only hit that Cookie Lavagetto made. He never did become  
11 a regular on the Dodgers although, as I said, he was an  
12 asset to them. He was traded to Chicago where he did become  
13 a regular player. He didn't perform quite as well as  
14 anybody had expected him to. His batting average was not  
15 as high as it might have been, but he did get the opportunity  
16 and did participate, I believe, in well over 130 games for  
17 at least two years with the Cubs.

18 Q What about Don Zimmer?

19 A Don Zimmer was another player of promise with the  
20 Dodgers. He was just starting to be a regular shortstop  
21 I believe while he was still in Brooklyn. He suffered a  
22 severe injury. He was hit with a pitch.

23 Q A head injury?

24 A A head injury, yes. Missed almost an entire  
25 season. Came back and was a very game player, tough, and

2 did his best and finally, I believe, ended up playing as  
3 a regular for at least one season with the Dodgers in  
4 Los Angeles, and then again was traded to the Chicago  
5 Cubs and played for them for a considerable period of time.

6 Q What about Hoak?

7 A As I recall, Hoak was almost a regular at the  
8 start. He played quite frequently for the Dodgers. I know  
9 he was their regular third baseman for at least one year  
10 very shortly after he got to the big leagues. He was also  
11 traded to Chicago where he was their regular third baseman  
12 for a number of years and then later traded to Pittsburgh  
13 where he was their regular third baseman and did a very good  
14 job.

15 Q Are you aware of the fact that there was a witness  
16 by the name of Mr. Brosnan here as a witness for the  
17 plaintiff?

18 A I am aware he was here.

19 Q Are you aware of the fact that he alluded to  
20 Steve Bilko, Bob Speake and a Jack Hollis as players that  
21 he regarded as having capabilities who were held back  
22 because they were behind other players?

23 A I am aware that he did mention those players.

24 Q Were Bilko and Speake players during the time  
25

when you were the general manager of the Giants?

A Yes.

Q And are you aware of their skills and careers?

A Yes.

Q Will you tell his Honor what you know about Steve Bilko?

A Steve Bilko was a first baseman that the Cardinals thought very highly of and had great minor league records. He was certainly given many opportunities in the big leagues. He appeared with several clubs, played on more or less of a regular basis and had a long career in the major leagues. However, he never really fulfilled the high promise that they had for him.

Q What about Bob Speake?

A Bob Speake broke in with the Chicago Cubs and did very well for a short period of time. I am sure he was given opportunities to play because he came to the Giants after being with the Cubs for two years and spent some time with us. He had some ability but he was not a good hitter, really. He had problems with the curve ball. So he went back to the minor leagues. But he had opportunities to play. As a matter of fact, he broke in with the Cubs, I believe, with a great splurge of hitting home-runs.

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Q What about Jack Hollis. Do you know anything about him?

A I never heard of Jack Hollis.

Q Mr. Brosnan said he was a second baseman on the Chicago Cubs. Did the Chicago Cubs ever have a second baseman by the name of Jack Hollis?

A Not to my knowledge.

Q We are speaking of the time now when you were the general manager of the Giants.

A Yes.

Q During that time there was no Jack Hollis on the Chicago club team in any position or any capacity, is that right?

A Not to my knowledge.

MR. HUGHES: I wonder, Mr. Topkis, if you would stipulate that in the encyclopedia Mr. Hollis's name does not appear as a major league player?

MR. TOPKIS: If you tell me that, I will take your statement.

MR. HUGHES: I do tell you that.

MR. TOPKIS: It is entirely possible, of course, Mr. Brosnan's recollection was off on the spelling or something like that. I don't know. He is back in Chicago now.

MR. HUGHES: There are all kinds of possibilities, but the fact is there was no Mr. Hollis.

THE COURT: We are concerned with what appears in the record.

Q Were you here when Mr. Greenberg testified?

A Yes, I was.

Q Mr. Greenberg testified as follows at Page 237 of the transcript.

MR. HUGHES: This is a rather long quotation, your Honor, but I think it is important that the witness have the full text of it.

Q Mr. Greenberg says: "Well, my first feeling is that the reserve clause in the present contract should be eliminated entirely and basically to create a new image for baseball..."

He goes on to say: "...the first way to get a new image is eliminate the reserve clause in the present contract, and then I think it would be very easy to come up with some kind of an agreement, a contract for a term of years, in which the club had rights to protect its interests in the players during the development stages, and certainly if a club, after X number of years, five years -- let's presume it would be five years -- if it can't develop

1  
2 an esprit de corps between the players and the club, then  
3 the player ought to leave the club and go somewhere else."

4 Then he goes on to say:

5 "It seems to me the club should have some time  
6 to protect their development costs in a player, and they  
7 ought to be able to in a period of five years to develop  
8 a spirit of belonging to a club, which is terribly import-  
9 ant."

10 He then went on further to say at Page 246:

11 "Let me -- the reason I said, eliminate it" --  
12 and he was referring to the reserve clause in the contract  
13 itself, your Honor -- "rather than revise it was that there  
14 had been so much conversation about the reserve clause  
15 should be revised or changed. I think that the reserve  
16 clause, as everyone understands it -- very few people do,  
17 unless you have been a ballplayer, and you have to get  
18 the definition of it -- it's merely a clause in a uniform  
19 contract, one paragraph, which gives the club the right  
20 to retain the services of the player over a period of  
21 years, and I think that ought to be eliminated so that in  
22 the eyes of the public the reserve clause is eliminated."

23 Now, in your opinion, what would be the  
24 effect of the elimination of the reserve clause and the  
25 adoption of some kind of change as contemplated by Mr.

Greenberg in that testimony?

A Well, it is long testimony. It sounds to me as if Mr. Greenberg was worried about the public and the press apparently was saying that a reserve clause by any other name would smell sweeter. He wanted the clubs and the players to get together on a similar thing as the reserve clause. I believe that is what he was saying. The five-year proposal which is involved in there we have already discussed earlier because that was the same type proposal that Mr. Miller made on a number of occasions.

The fact is again that you would have players becoming free of their own volition who would perhaps involve an integrity question as far as the public is concerned and also give the opportunity for the more financially endowed clubs to make a shambles of pennant races.

End 5

c6/1

Q Now, Mr. Greenberg also testified that, "The reason for my being here, Judge, is that I think this has to be worked out between the owners and the players."

Wouldn't you agree with Mr. Greenberg on that point?

A Yes; I would.

Q Now, over the years, have there been changes in the rules and procedures of organized baseball that have increased the benefits to the players?

A Yes; there have been.

Q Will you tell us what those changes and benefits are, as you can recall them?

A Well, the things that come readily to mind that are obviously of great benefit to the players is the pension plan that has been instituted over the last two decades, the fact that now players have a minimum salary that they can count on. The changes that have been made as far as their -- the ability of a club to reduce a player's salary after each year; the changes that have been made as far as the severance pay; the changes that have been made in the Minor League draft, as you characterize it that --

About ten years ago, your Honor, only one player from a minor league club could be drafted by a major league club, so that effectively closed the rest of the players to that major league club. At the present time, any number of players

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1  
2 Players' Association, and now collective bargaining between  
3 the representatives of ownership and the players.

4 Q When did collective bargaining and players begin?  
5 Approximately when did it begin?

6 A I guess you could say that the collective bargaining  
7 officially started, in a way, in the '40's. However, the  
8 players were not represented full time at that point.

9 Q If I may interrupt, at that point who did represent  
10 the players' way back in the early stages of collective bar-  
11 gaining?

12 A Well, they represented themselves and they did later  
13 on have an attorney named J. Norman Lewis. He was replaced  
14 by Judge Cannon from Milwaukee, who was not a full-time repre-  
15 sentative; he was a Judge in the Milwaukee courts. And then  
16 they obtained the services of a full-time representative, I  
17 believe in 1966: Mr. Miller.

18 Q And do you recall when or approximately when the  
19 Players' Association was formed?

20 A I don't know when it was officially formed, but I  
21 think that you could say that there was a Players' Association  
22 formed in the late '40's. I don't know --

23 Q Perhaps we ought to have the date for the record.

24 MR. HUGHES: Do you have it, Mr. Topkis, just so  
25 we have it in the record at this point?

MR. TOPKIS: I am sorry, I don't, Mr. Hughes. Not right now. We will doubtless be able to get it for you.

THE COURT: Mr. Miller is in court. Why don't you confer quietly with him for a moment? This is the point in the record where you would like to have it.

MR. TOPKIS: Quite so, your Honor.

MR. HUGHES: Your Honor, it appears that the players' organization in its present form was organized in 1954.

Is that correct, Mr. Topkis?

MR. TOPKIS: Yes, indeed.

Q Now, did there come a time, Mr. Feeney, when the Players' Association invited you to become a candidate for the office of executive director of the Players' Association?

A Yes. In 1965, when they were contemplating hiring a full-time representative, Harvey Keana, who was then the Giants' player representative, Jim Bunning, who was the American League, at that time, player representative, and Robin Roberts, who was the National League player representative, at a meeting in the Fontainebleau Hotel asked me if I would become -- be interested in becoming a candidate -- a candidate for the position. They asked me if I would. I thought it over, wrote Robin Roberts and declined their kind offer. I think it was one of the most flattering things

1 mpbr 5 Feeney-direct

2 that's happened to me in baseball.

3 Q And then an executive director on a full-time basis  
4 was appointed?

5 A Yes.

6 Q And is that Mr. Miller?

7 A Yes; it is.

8 Q And he has been serving in that capacity, to your  
9 knowledge, ever since?

10 A Yes.

11 MR. HUGHES: Just a moment, please, your Honor.

12 Q Mr. Feeney, are you familiar in a general way with  
13 the renewal option provisions in the player contract of the  
14 National Football League?

15 A In a general way, yes.

16 Q And can you state to his Honor your understanding  
17 of what that renewal option is?

18 MR. TOPKIS: Oh, your Honor, while Mr. Feeney is  
19 doubtless qualified in many ways, he is scarcely qualified as  
20 an expert in contracts or relations in football.

21 THE COURT: What do you say to that, Mr. Hughes?

22 MR. HUGHES: Well, I understood him to say that he  
23 was --

24 THE COURT: I cut off Mr. Miller. You haven't laid  
25 enough of a foundation to warrant going into this other sport.

mpbr 6

Feeney-direct

MR. HUGHES: Your Honor, I say this: So far as I know, Mr. Feeney has never been connected with professional football in any way. It's my understanding that he is familiar with the contract, and he has testified that he is familiar with it.

Q Are you familiar with the provisions of the football contract?

A Yes; I am.

THE COURT: Well, Mr. Miller told us that he was always looking around for anything relating similar to clauses in other sports to those incorporated in the baseball contract, and undoubtedly he was comparing the language and trying to find out why these other sports injected this and that, and we cut him off, and with your approval -- I don't see that we should advance a different criterion for this witness. I will sustain the objection.

Q Now, Mr. Feeney, I want you to assume a change in the National League in the baseball player contract so that instead of the present renewal provision of the Uniform Player Contract there would be a change so that the player would have the right to play out his option in the period of the first renewal and thereafter be a free agent.

I want you to assume that kind of a change in the player contract.

mpbr 7

Feeney-direct

Now, in your opinion, what would the effect of such a provision be in organized baseball?

A Well, as I indicated in earlier testimony, the method of getting young men to come into baseball and the method of training them is different than it is in other sports. They would normally sign their original contract with a National Association or minor league team. At the time of their original signing is the time they get a bonus, which is to be paid to them whether they are released or not over a two-year period. I just don't think that anybody could conceivably interest young men in coming into baseball with financial inducements if they knew that their contracts -- they might only be able to retain their contracts for two years, in which they were not even on the major league club. I think this would carry there. I think there would be many, many players transferring each year in the minor leagues and then again in the major leagues, but I don't think we would be able to induce the better players. We are competing with colleges and other athletic endeavors, including football and basketball, for the services of young athletes, and it takes a long training period; it takes a big investment on the part of the clubs to get the players that are able to play in the big leagues and are put on -- and put on a performance that warrants the name of big league baseball.

Q In your opinion, would such a provision involve exposure to tampering?

MR. TOPKIS: Objection, your Honor. The witness surely does not need to be led.

MR. HUGHES: Your Honor, I think he has --

THE COURT: I think it is a leading question. Would you be good enough to reframe it?

Q Have you now exhausted your recollection as to the effects which this kind of a provision would have if it went into effect in organized baseball? Have you told us all you can think of?

MR. TOPKIS: I am boxed in with this tampering.

THE COURT: Now that the question was put, does something trigger your memory?

THE WITNESS: Is a matter of fact, yes, your Honor.

Q Let's have it.

A It certainly could lead to tampering with players under contract to other clubs. We do have a little different situation in baseball. The teams visit other cities on a regular basis, spend time in those cities. Football leads rather a cloistered existence.

It certainly could and quite conceivably would lead to tampering if a player was going to be free after one year, and also -- this I jogged my own memory, your Honor -- it's

not a good situation for a player to be playing at his option, as far as either the player or the club is concerned. The clubs got to realize that when the player is playing out his option that he may not be back with them the following year. As a result, they've got to make other plans, try to get a player as a substitute for him and put up somebody in the regular line-up that may not be quite as good as he is, because they know that this man not be in their plans.

Also, a player that's playing out his option obviously isn't a satisfied player, and, as we said earlier, the satisfied player is the best player.

THE COURT: Would you suffer an interruption?

I wanted to point this out earlier: I have a habit of shaking my head in the affirmative. Please understand that that is not to record my agreement. It is just that I am recording that I understand what is being said. I should stop it, because I had a sad experience some time ago with a defendant, who had the right of allocution, who was pleading, and I kept nodding my head, and he was dismayed when I had to announce my sentence -- it was mandatory under the law -- and he said, "Why, you were encouraging me all along. Why did you do that?"

So please remember, it is not an expression of view. It is just an old habit of indicating, especially to

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a witness, that I understand what he is saying.

MR. HUGHES: Your Honor, we felt neither encouraged nor discouraged by it.

Q Mr. Feeney, can you tell us approximately how many are employed on organized baseball? I am including, players, administrative personnel, everybody that has some kind of livelihood out of organized baseball and I am including both the major leagues and the minor leagues.

A Well, there are an enormous amount. Perhaps I can do it by indicating how many people were employed by San Francisco, and we could multiply it approximately by twenty-four. Would that --

Well, the Giants have in their office approximately thirty-five people. Scouting department is approximately forty-six people -- forty-six scouts.

This, of course, and then we have a five-unit minor league system, where again it's probably an average of seven or eight full-time employees are paid. These include such things are groundkeepers, ticket help, general managers, business managers, et cetera.

There are forty players on a major league roster. There are thirty-eight players on a Triple A roster. There are players on Double A and then on A.

You have also an enormous amount of seasonal per-

sonnel, ushers or usherettes, ticket takers, ticket sellers, ground keepers, concession stand operators.

Then you have people that are broadcasting and people that are writing the games up. I don't know whether you count them. But there are an enormous amount of people involved in the putting on of a baseball game throughout the country, including the minor leagues.

Q And have you in mind an estimate of the approximate number of people who are directly employed in baseball, as you now describe?

A I would have to say that there are -- well, like fifty-thousand, sixty-thousand. I forgot the umpires, incidentally.

Q Were you present when the plaintiff testified in this action?

A Yes; I was.

Q And do you recall that the plaintiff in the course of his testimony estimated that he would have about five more years of baseball playing skill and that in his opinion he could command a salary of \$90,000 for each of those years? Do you remember that as the substance of his testimony?

A Yes.

Q In your opinion, is this a realistic forecast?

A I would say it's speculative.

1  
2 THE COURT: Mr. Kramer.

3 MR. KRAMER: No questions, your Honor.

4 THE COURT: Won't you get started, please, Mr.  
5 Topkis.

6 MR. TOPKIS: Gladly, your Honor.

7 CROSS EXAMINATION BY MR. TOPKIS:

8 Q You say, Mr. Feeney, that Mr. Flood is not as remark-  
9 able a player and fan attraction as Willie Mays. How old is  
10 Willie Mays today?

11 A Thirty-nine.

12 Q Do you know of any reason in Mr. Mays' and Mr. Flood's  
13 physical condition which would bar Mr. Flood from playing  
14 as long as Mr. Mays?

15 A I do not.

16 Q Tell me, has the trend of Mr. Mays' salary in the last  
17 seven years been down or up?

18 A In the last seven years it has been up, and then  
19 maintained a level.

20 Q And when did it hit the level that it has since  
21 stayed at, at what age?

22 A I think three years ago.

23 Q When Mr. Mays was thirty-six?

24 A Correct.

25 Q The Giants have never thought it appropriate to

Q Do you consider him to be in the same class as a player and as a fan attraction as Willie Mays?

A I think Curt's a very fine baseball player, but I think he would even admit that he is not quite the fan attraction as Willie Mays is.

Q Would you say he is in the same class as a player or fan attraction as Stan Musial?

A My answer would be the same.

Q Or as Ted Williams was?

A My answer would be the same.

Q Or as Henry Aaron is?

A My answer would be the same.

Q Or as Mickey Mantle was?

A My answer would be the same.

MR. HUGHES: That is all, your Honor.