

THE COURT: You are excused, Mr. Feeney.

(Witness excused.)

MR. HUGHES: The defendant clubs now call
as their next witness Mr. Vaughan Devine.

V A U G H A N P. D E V I N E, called as a witness by
the defense, having been first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. HUGHES:

Q Mr. Devine, where do you live?

A Ladue, Missouri, which is a suburb of St. Louis.

MR. HUGHES: Is my voice up high enough, your
Honor?

THE COURT: It is fine. I am hoping Mr. Devine
will match you. Am I disqualified from sitting here
because I am familiar with that community?

How large is it now, Mr. Devine?

THE WITNESS: St. Louis or Ladue?

THE COURT: Ladue.

THE WITNESS: Ladue is about the same size it was
before.

THE COURT: How long do you think I am talking
about? I am going back 35 years on that.

THE WITNESS: That is when I lived in University
City and I didn't know Ladue existed at that time.

THE COURT: All right.

Q By whom are you employed?

A By the St. Louis Cardinals.

Q What is your position with the St. Louis Cardinals?

A Vice-president and general manager.

Q Will you tell us briefly and in a general way your education and background leading up to the time when you first went into the business world?

A I graduated from the University City, Missouri high school and went to Washington University in St. Louis, from which I graduated in 1938, with a Liberal Arts degree.

Q And after that did you go to work?

A Went to work from Washington University with the Cardinals, the St. Louis Cardinals, a year later, '39, in the publicity department at the time as a runner and I guess an office boy, in effect, in that department.

Q Would you trace your career from that time up to the present, please?

A Yes. In 1939 and 1940, I worked in the St. Louis publicity department -- St. Louis Cardinals publicity department. 1941 I was sent to Johnson City, Tennessee, of the then Class D Appalachian League, as the business manager. I also played part of the season there.

In 1942, I was sent --

Q Is this a St. Louis farm team?

A Yes, these were St. Louis farm clubs. I went to Fresno, California, in the California State League for part of 1942, the latter half of the year finished the season at Decatur, Illinois, again as business manager.

In 1943, 1944 and 1945 I was in the service, in the navy.

1946, and 1947, I was the general manager, Columbus, Georgia, in the South Atlantic League, also a Cardinals farm club.

1948, returned to St. Louis for one year as the assistant to the president of the St. Louis Cardinals in charge of public relations.

In 1949 through 1954, was the general manager of the Rochester Redwings of the International League.

In 1955, I returned to St. Louis as a combined scouting and player development director.

1956 and 1957, remained in St. Louis as the assistant to the then general manager of the Cardinals, Frank Lane.

1958 until August of 1964, served as the general manager of the Cardinals.

October of 1967, was connected with the New York Mets.

1965 and 1966, as assistant to George Weiss, president of the Mets, mainly working in player acquisition and player development.

1967, served as the president of the New York Mets.

1968 and 1969, returned to St. Louis as the general manager of the Cardinals.

Q So that except for the three-year stint with the Mets your whole business career has been with the St. Louis organization, is that correct?

A That is correct.

Q And in your present position as vice-president and general manager of the Cardinals, what are your duties?

A Well, I am responsible for the entire operation of the baseball club. Of course, my more direct duties, aside from the supervision of the various departments, is the acquisition, the signing of ballplayers at the major league level and, of course, a close supervision not only with all departments, but more particularly with acquisition and development of ballplayers.

Q Did you act on behalf of the Cardinals in the exchange of contracts which assigned Curt Flood's contract to the Philadelphia Phillies?

A Yes, I did.

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2 Q Can you tell us when or approximately when
3 that transaction occurred?

4 A Well, the transaction actually occurred, I believe
5 the date was October 8 of the past year, 1969.

6 Q And would you describe the transaction, that is
7 to say, the player contracts that were involved?

8 A The player contracts were going from the Cardinals
9 -- the player contracts involved in the deal were from the
10 Cardinals to the Phillies -- Curt Flood, Tim McCarver, Joe
11 Hoerner, and Byron Brown.

12 Coming to the Cardinals from the Phillies, Richie
13 Allen, Cookie Rojas and Jerry Johnson.

14 Q Did McCarver report to the Phillies and sign
15 a contract?

16 A Yes, he did.

17 Q Did Brown report to the Phillies and sign a
18 contract?

19 A Yes.

20 Q Did Hoerner report to the Phillies and sign a
21 contract?

22 A Yes.

23 Q Did Richie Allen report to St. Louis and sign
24 a contract?

25 A Yes.

Q Did Johnson report to St. Louis and sign a contract?

A Yes.

Q And did Cookie Rojas report to St. Louis and sign a contract?

A Yes.

Q Are all of those players now playing with the exception of Mr. McCarver?

A They are all playing. In the interim Jerry Johnson has been traded -- the contract of Jerry Johnson has been traded to the San Francisco Giants for that of Frank Linzy.

Q And he is now a player on their team?

A That's right.

Q What happened to McCarver?

A Well, McCarver suffered a fractured finger playing for the Phillies early in the season and has been on their disabled list since that time.

Q So he is temporarily out?

A Temporarily inactive, disabled.

Q Would you now describe for his Honor in your own way the details of the transaction which was consummated by this exchange of player contracts going back to the time of the first discussions between you and the Phila-

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2 delphia club, taking us down to the time when the transaction
3 was consummated?

4 A Well, originally, some time late in September,
5 I inquired of John Quinn, the general manager of the Phila-
6 delphia Phillies, if the rumors which we saw and heard
7 were true that Allen was available in a player deal.

8 John Quinn confirmed the fact that Allen could
9 be had in a deal, and we said we were interested. We agreed
10 after subsequent thought that we would discuss this deal
11 further, which we did on several occasions. The procedure
12 in this particular case was to ask the Phillies what kind
13 of players they foresaw could be available -- would be
14 needed by them in such a deal.

15 Q These are questions you asked of Quinn?

16 A That's right. And they developed a list, a player
17 list, of some 11 names at that time, as I recall, which
18 was eventually reduced by us to about 7 names.

19 And then in subsequent conversations we simply put
20 together from that list of names the four players which we
21 sent to the Phillies and the three which they returned to
22 us in the deal.

23 Q From your standpoint, was the primary considera-
24 tion in the deal the acquisition of Richie Allen's contract?

25 A Very much so. As I said, that was our first

inquiry as to whether or not Allen could be had in the deal and that was the main basis on which we predicated our interest.

Q Was there any motivation on your part for getting rid of the player contract of Curt Flood?

A Well, we did not mention names to the Phillies. They came back to us with a player list, which, as I say, included 11 names originally and was eventually reduced to 7, and on both lists -- on the original list and on the second list -- the names of the players which were left in the deal, which were involved in the deal, were left on the list. The Phillies indicated at all times the two most important names as far as they were concerned were the catcher, Tim McCarver, and the center fielder, Curt Flood.

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Q Did they indicate to you, in words or substance, that unless those two players were included there could be no deal?

A I think they not only indicated that, but stated that.

Q Now, when was the transaction actually consummated in the sense that you came to a firm agreement?

A We felt we had a firm agreement on a deal at about 1 o'clock in the morning of the morning of October the 8th, but we agreed at that time that the middle of the night was a dangerous time to really complete a deal because you had to get in touch with a lot of people, and we also agreed we would sleep on it, if you could use that word, for the next few hours and talk first thing in the morning and make certain we were still in agreement and wanted to conclude the deal as mentioned.

I talked to John Quinn again at about 7 o'clock in the morning, my time, and we quickly both agreed that our talk, our conversation of the night before was firm and in order, and we were prepared to make a deal and announce it, I believe, at about 9:30 in the morning, St. Louis time.

Q Now, how was Curt Flood notified that his contract was being assigned?

A Curt Flood was notified in a call from Jim Toomey,

the assistant to the general manager, by telephone call that his contract had been assigned to the Phillies.

Q Was there a discussion between you and Mr. Toomey about reaching the various ballplayers that were involved in the transaction, the St. Louis ballplayers who were involved in the transaction, as to how you notified them?

A Well, that is always our first matter of business in a player deal, after it has been accomplished, is to attempt to reach the players and notify them. In the off-season it is obvious that you either have to do this by telephone or perhaps personal visit, but in most cases obviously telephone because of the time element involved, and we discussed the matter in which we would reach these four players as quickly as possible, and because of the press of a good many details, I suggested that he attempt to reach Flood, Hoerner and Brown, and I would attempt to reach McCarver.

Q And is that what you did?

A I talked to Tim McCarver on the telephone in Memphis and Jim Toomey later reported to me -- later -- he told me at that time that he was able to get Flood and Hoerner or able to get Flood and Hoerner's home, although Hoerner had left the house earlier that morning, and was unable to locate Brown who apparently was traveling.

Q And did you make these contacts with the players

prior to the public announcement of the transaction?

A Well, as I have indicated, we did with Flood and McCarver for certain. We attempted to with Hoerner and reached his home, and I believe that his wife reached him with the word that we were trying to get word to him about a matter of importance. We apparently did not reach Brown. I would assume we did not reach Brown before he heard about it because he was completely unreachable as far as we were concerned.

Q Is this the way that you would customarily notify players when a trade has taken place?

A It depends on the time of the year. If it is during a playing season, the normal procedure is to attempt to have the manager notify the player. After all, the manager is the closest supervisor to the player and can best tell him why he feels that the deal was desirable, sending him away from your club, so it is always felt that the manager would be the first one to talk to him and could better do it, after which he would send him or tell him to see us, see someone in the office about the technical details.

In the off-season it is impossible to really have everybody available and to ask the manager to do this particular job, so in the off-season normally someone in the office, usually Mr. Toomey or I, attempts to reach the player.

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Q And this was after the playing season, was it not?

A That's right.

Q Mr. Flood was in St. Louis or the St. Louis area, is that correct?

A Flood was reached at his St. Louis home address, the address at which we had a telephone number.

Q By the way, was his family living in St. Louis at that time?

A It is my understanding that they were not. I believe they live on the West Coast.

Q You did not discuss with any of these players the fact that negotiations were going on between you and the Phillies prior to the time that you informed them of the completion of the transaction, did you?

A No, I did not.

Q And do you have a policy of not informing players prior to the actual consummation of a player trade?

A That's correct.

Q What are the factors that have prompted you to adopt that kind of a policy?

A I think one of the biggest reasons would be that it is a good bit -- there are a good many conversations about player transactions, player deals, acquisitions, players leaving the club, that really never take place. The conver-

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sations go on. They are not in the form of direct offers back and forth, and really a player deal does not become a finality until the two clubs have completely agreed on it, and many times this takes a great period of time, there are many conversations, personal visits sometimes, telephone conversations and more often than not deals actually are not made, consummated.

Q Did there come a time when you personally did talk to Mr. Flood about the assignment of his contract?

A Yes. Immediately after we had tried to wind up all of the technical details leading up to the announcement of the deal, we went into an immediate press conference again setting it up as quickly as possible to eliminate, if we could, any leakage and make it official and formal in a clean way.

Q Excuse me. Was this the same day?

A This is the same day. This is within the hour after these telephone conversations. And after the press conference, which was some hour and a half in length, I would guess, I came out and was told by my secretary that Curt Flood had called and left a telephone number for me to call him, which I immediately did.

Q Did you reach him?

A I reached him immediately.

Q Did you and he have a conversation?

A Yes, we did.

Q Will you give us the substance of that conversation, telling his Honor what you said and what Mr. Flood said?

A The substance of the conversation was that Flood said, as he had told me the year before, he had thought about quitting at that time, that baseball playing had become physically a problem to him, that he really was tired mentally and physically, and as he often had thought, too, that there was something better in this world than playing center-field. He thought that this was now the time for him to effect this retirement and quit and as a result he was going to quit and not report to the Phillies.

Q What did you say to him?

A I told Curt that I thought that this was an emotional reaction, that he really didn't feel this way after he would think about it because in my opinion he had several more good years of baseball left in him. I thought that he must have liked the game or he would not have played it as long as he did, as well as he did, and as a result I felt certain that after due consideration he would probably change his mind and these emotions would -- after the emotions left he would feel differently.

I also told him that Mr. Quinn would be in touch with

him and talk to him about the Philadelphia end of the deal and his interest in him, and he said, "Well, there's not much use."

In fact, I said he would call him immediately, that he had gotten his number and wanted to talk to him quickly, which again is normal procedure, and that Flood could expect a call from him very shortly, and Curt said, "Well, I really have nothing to talk to Mr. Quinn about because I am going to quit and I am not going to report to the Phillies, so there's no need to talk to him, and he had better reach me quickly anyhow, because I'm going to leave the country and be out for quite a while."

Q Did he say where he was going?

A I believe he said he was going to Copenhagen, and I was familiar with that because I knew he had some sort of a business over there.

Q Now, have you exhausted your recollection of that conversation?

A No.

Q No. Well, then, tell us anything further you have to say.

A There is one other thing I do recall. I recall Curt telling me, in this somewhat lengthy conversation now, that he wished I had shot him down the previous spring, and this

1 was in terms of his quitting, and I asked him specifically
2 because I thought -- I thought I knew, but it was a little
3 unusual expression -- I said, "When you say 'shot me down,'
4 what do you mean?"
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6 And he said, "Well, you know, when we were having
7 our contract discussion of a year ago and I wanted more money
8 than you were prepared to give me and we couldn't get to-
9 gether, I wish then that you hadn't reached a figure that
10 I could agree with and probably we would never have reached
11 this point and I would have quit a year ago."

12 Q Going back to that year ago and the preceding year,
13 did you participate in the negotiation of Flood's contract
14 for the year 1968?

15 A Yes, I did.

16 Q And do you recall what his salary had been in 1967?

17 A I believe in '67 his salary was \$50,000.

18 Q Did you make him an initial offer for 1968?

19 A We did, but I don't recall what the offer was.

20 Q Do you recall whether he accepted the initial offer?

21 A No, he did not.

22 Q And do you recall the figure at which he signed his
23 1968 contract?

24 A I am certain he signed the 1968 contract at
25 \$72,500.

Q Well, do you recall whether your final offer was less than \$72,500?

A Yes, it was less than that.

Q Do you recall whether there were discussions back and forth and your raising the figure and his coming down?

A It was a fairly normal negotiating. I say normal, treating it as my experience has been in a good many cases, of where we were separated by some considerable amount and discussed on occasion. When we had our discussions we tried to arrive at a figure that could be mutually agreeable.

Q Did you negotiate his contract for the year 1969?

A Yes, I did.

Q You have told us he was getting \$72,500 for 1968. Do you remember what you offered him initially for 1969?

A Yes, I do recall that. We offered him a \$5,000 increase to \$77,500.

Q And what did he want?

A Curt specified that he wanted \$100,000 or more. It may have been more. I do know that it was \$100,000, at least, because he had often said that one of his goals was to become a \$100,000 ballplayer.

Q And what did you finally wind up agreeing to give him?

A Our agreement on a contract, the signed contract

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that year was \$90,000.

Q And he signed a contract for \$90,000 for that year?

A He did.

Q Mr. Devine, were you general manager of the Cardinals when Flood's contract was assigned by the Cincinnati Reds to the St. Louis Cardinals in 1957?

A Yes, I was.

Q Did you handle that transaction?

A I did, with other members of the Cardinal organization.

Q Do you recall what the situation was as to Flood's playing opportunities on the Cincinnati club at the time his contract was assigned to the St. Louis Cardinals?

A Well, Flood at the time, of course, was a very young ballplayer and considered a very fine prospect not only in the Cincinnati organization but by those of us outside who had seen him and scouted his abilities. We had known that the Cincinnati club had an outstanding comparatively young outfield and recognized the fact that there might be available a fellow like this, like Flood, who also played the outfield best or what it turned out the Cincinnati club was looking for at that time, pitching, and so the conversation leading to a deal revolved around our efforts to get Flood because of his considered availability and their admission of

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such and their interest in some pitching to which we thought we had access.

Q From your standpoint you were after Flood?

A That's right.

Q And what was the transaction as it ultimately worked out, what players were involved in the transaction that you recall?

A We traded three pitchers by the name of Willard Schmidt, Marty Kutyna, and Ted Wieand for Curt Flood and Joe Taylor.

Q And did all of the players in this transaction report to their respective new clubs and sign contracts?

A Yes, they did.

Q Now, after Flood came to the St. Louis club, how did he perform over the first few years?

A Flood's first year in St. Louis, he came to spring training and showed all the impressive abilities we thought that he had, but it was felt that he was required or needed some further seasoning. He was sent to Omaha which was our Triple A farm club at that time, where he played some 15 games is my memory -- it may have been he was there longer, I don't recall, but he did play 15 games there, and shortly thereafter, both because he was going good and because I pre- we needed some outfield help, we brought Flood back to the

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Cardinal club with which he stayed thereafter.

Q And during that first year, how did he do?

A He played well. He again displayed his abilities. He had, my memory tells me, the failings of some lack of experience and some youth, and coping with big league pitching at that particular stage of his career was a problem for him, and he didn't hit as well as he looked as if he would, and should and did later.

He played, I would guess, roughly two-thirds of the time while he was getting his feet on the ground as a young, developing, gaining experience ballplayer.

Q And in the years 1958 through 1960 was his batting below the .300 mark, as you recall it?

A Well, yes, I know it was --

MR. TOPKIS: Objection, your Honor, if I may. This is all a matter of record.

THE COURT: Well, it may very well be, but I would like to have the benefit of his testimony without my having to consult the record.

MR. TOPKIS: Surely, your Honor. I withdraw the objection.

MR. HUGHES: There was a question. I am not sure that the witness answered it.

THE COURT: Mr. Reporter, would you please read the

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question.

(Question and portion of answer read.)

A (Continuing) I know it was below the .300 mark for those three years, although I don't recall the specific figures.

Q After that, wasn't he a pretty consistent .300 hitter for the Cards?

A Yes, I think he hit over .300 at least about six seasons, if I am not mistaken, thereafter.

Q And in those instances when he fell below .300, it was just a small percentage below .300, isn't that right?

A To all intents and purposes, Flood was a .300 hitter in the big leagues.

Q And you regarded him then and you regard him now as a player of exceptional ability, is that right?

A That is correct.

Q Now, in your opinion did Flood benefit from the trade which took him from Cincinnati and put him on the St. Louis club?

A In light of the results, I would certainly say that he benefited.

Q And what were those results?

A His becoming a regular centerfielder on the Cardinals, in the big leagues, for a long period and benefiting from

both an income standpoint and undoubtedly from a personal satisfaction standpoint by his production.

Q Did he participate in any world series?

A Yes, he participated in three world series.

Q Now, Mr. Devine, in your opinion what role does the trading of player contracts play in the building of a strong competitive team?

A In my opinion it plays a comparable role to the matter of player development. I think that it is hard to separate whether it is 50 per cent of the success of a club. I think that it is certainly a most important feature of it, both the developing of young players and the dealing for players in positions or capacities needed on the big league club.

Q Can you illustrate for his Honor from your own experience instances where the trading of player contracts had the effect of building a strong competitive team?

A Well, I can give it from my own standpoint, in the acquisition of players.

Q That is what I mean.

A The 1964 Cardinals were a combination of developed players and acquired players. Certainly key players on the club that year were fellows who were acquired in player transactions such as Flood, Lou Brock, Bill White, Julian

2 Javier, second baseman, Dick Groat and Barney Schultz, a
3 pitcher, Curt Simmons, a pitcher, and Ray Sadecki, a pitcher.
4 Well, Sadecki wasn't -- I am sorry, I take that back.

5 Q Well, these players that you have mentioned, Brock,
6 Flood, Javier, their contracts were acquired by assignment,
7 is that correct?

8 A All of the players I mentioned, eliminating Sadecki,
9 about whom I made an error, and qualifying Curt Simmons,
10 because he was not assigned, nor a Cardinal ballplayer, but
11 he was acquired as a free agent, he was at the time a free
12 agent, and we signed him several years previous, but he was
13 on the club in '64.

14 Q Well, tell me a little bit about that. Curt Simmons,
15 what was his position?

16 A Curt Simmons was a left-handed pitcher with the
17 Phillies who was an outstanding young pitcher and suffered
18 an accident to his -- as I recall it, some kind of a lawn-
19 mower accident to his foot which apparently set him back some
20 time and at one point looked as if it might have completely
21 ruined his career because it seemed to have some effect,
22 too, on his ability to throw the same way, and he came up
23 with a sore arm.

24 After several years of trying to return to form,
25 he finally reached the point where the Phillies apparently

made a decision that he simply could not help any longer and apparently had some arm trouble or certainly had had some arm trouble, and they decided to give him his release.

At the time he was released we contacted him, or shortly thereafter, as a free agent, and he signed him to a contract with the Cardinals.

Q When was that, or approximately when was that, Mr. Devine?

A It would have had to have been, I believe, either 1960 or '61.

Q And there were three world series during your tenure with the St. Louis club, is that right?

A No, that is not right. I left the club before they reached the world series in 1964. I was with the club up till August of that year, and I was not there in '67 when they won.

Q But was Simmons with them in 1964?

A Yes.

Q And did Simmons help them in the pennant drive that year?

A Yes, he was one of their -- he was certainly one of their starting key pitchers.

Q Mr. Devine, what was the approximate cost to the St. Louis club for player development in the year 1969?

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2 A Well, by player development, we lump that sum in our
3 particular statements to include player acquisition and player
4 development. That figure amounted to about \$1,750,000.

5 Q And for the two or three years preceding that, what
6 was the approximate amount?

7 A It was over a million each year. It wasn't as high
8 as \$1,750,000. I would guess about a million six, a million
9 three or four, somewhere in that area.

10 Q What is it that prompts a club like the St. Louis
11 club to spend this kind of money on player development?

12 A The need to stay active in the player acquisition and
13 player development field, to continually have a flow of young
14 ballplayers attempting to prove their abilities, moving up
15 through the minor leagues, being trained as they are getting
16 the experience of higher classification club at all times,
17 eventually coming to a position of being able to move into the
18 major league picture.

19 MR.HUGHES: No further questions.

20 THE COURT: Mr. Kramer.

21 MR. KRAMER: No questions, your Honor.

22 THE COURT: Mr. Topkis.

23 CROSS EXAMINATION BY MR. TOPKIS:

24 Q Mr. Devine, did I understand you to say that you
25 played baseball with the Johnson City team?