

which he signed after the renewal notice, just as Carlton is.

Q Is that also true of Carlton?

A Correct.

MR. HUGHES: I have no further questions.

THE COURT: Mr. Kramer?

MR. KRAMER: No, your Honor.

THE COURT: Anything further, Mr. Topkis?

MR. TOPKIS: No.

THE COURT: You are excused, Mr. Devine.

(Witness excused.)

THE COURT: Something occurs to me. Would you step up for half a moment.

It is all right, Mr. Court Reporter.

(Discussion off the record at the side bar.)

THE COURT: I used the word "cricket" to get away from the issue right in front of me.

MR. HUGHES: Your Honor, the defendant clubs and leagues call as their next witness Mr. Joe Garagiola.

J O S E P H H E N R Y G A R A G I O L A, called as a witness by the defendants, having been first duly sworn, testified as follows:

THE COURT: Do you always have a smile like that?

THE WITNESS: Yes, always.

THE COURT: That is a blessing.

THE WITNESS: You have to do it because when you have those bad years you have to laugh your way through them.

THE COURT: That is what I do with bad cases.

THE WITNESS: I know. I can tell. You are sitting here and you are really grinding out but you look happy. A lot of guys walk around and they are happy in here (indicating) but they don't tell on their face.

THE COURT: What did you decide with regard to me?

THE WITNESS: You, I liked you.

THE COURT: Let's proceed.

THE WITNESS: I wish you were on a bubble gum card, Judge, I'd save you.

THE COURT: I think in light of that remark I know what to do with this request. Here is what happens in a democracy.

A card is received by the Judge of this court, one Irving Ben Cooper, an ordinary card coming from Georgia dated May 24, 1976.

"Dear Sir: I would like to get a complete transcript of the proceedings of the Curt Flood antitrust suit against baseball now taking place in the Federal Court in New York City without charge."

We are going to answer it but we are going to positively give that last comment.

2 THE WITNESS: I said it under oath, you know.

3 THE COURT: All right. Now, Mr. Hughes.

4 DIRECT EXAMINATION BY MR. HUGHES:

5 Q Mr. Garagiola, where do you live?

6 A I live in Scarsdale, New York.

7 Q And what is your present occupation?

8 A I am on the Today Show as a co-host. I do five
9 radio shows for NBC radio during the week, five on weekends.
10 I do monitor hosting 3 to 6 on Saturday. I have a show called
11 He Said She Said, and I speak at banquets.

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Q There was a time when you were a professional baseball player, isn't that correct?

A Yes, sir; I always thought so.

Q And will you tell his Honor your experience as a professional baseball player from the time that you entered the minor leagues up until the time that you decided to retire?

A I signed a contract in 1942 with the Springfield Cardinals, Class C. I went to Columbus, Double A in '43. I went in the Army, American side.

I shouldn't have said that.

In '45 I was in the Army. '46 I came back to the Cardinals. '47 the Cardinals, '48, '49, '50; '51 I went to Pittsburgh, in '52, '53 I went to Chicago; '54 I went to the Giants and I got some postcards and I quit. I quit in '55.

Q And do you recall what your lifetime batting average was?

A .257.

Q You were in professional baseball in the major leagues from 1946 to 1954, is that correct?

A Yes, except for two months in '48 when I was sent back out and brought back, but I was still owned by the Cardinals.

Q Where were you sent to?

A Columbus, Double A.

Q After you retired from baseball, did you go into this radio and TV business that you have told us about?

A Yes, but I quit on my own. I didn't retire. I was still desired, and I went into radio and television because I could see the handwriting on the wall, and I went -- I did play by play of Cardinals baseball, and I did Game of the Week, and then I did Yankee baseball, and then Tonight shows and Today shows and television.

Q And worked into the programs that you are currently doing?

A That's right, yes.

Q And I understood you to say you quit on your own. What do you mean by that?

A Well, I mean I wanted to quit, and I say that because I had made up my mind, and the Giants -- and I want to give them proper credit -- the Giants offered me more money the year I quit than I ever made, but I had made up my mind that I was going to quit. In fact, I took a \$4,000 cut to go into television.

Q And you did quit?

A Yes. Oh, yes. There was not too much argument against it.

Q Now, since your retirement from baseball, and taking

up these other activities, have you kept abreast of sports?

A Have I kept abreast of sports? Yes, definitely, all sports, because of my job. I just came back from the Indianapolis 500, but mostly baseball because that was my life. That's what I wanted to be, and I follow that closer than the other sports.

Q So that you say that your interest in baseball has perhaps been greater over the ensuing years than in other sports?

A No question about it. In fact, probably more interest now than a couple of years I was playing.

Q And do you have an interest in it as a fan as well as a personality in the entertainment world?

A Mostly as a fan. I would say frequently as a fan.

Q Now, when you were a player did they have this system which we have referred as the reserve system or sometimes referred to as the reserve clause?

A Sure, yes.

Q And during the time that you were in baseball, did you sign uniform player contracts?

A All the time, yes, sir.

Q And would you tell his Honor just briefly, and in a general way, your understanding of what the reserve system is.

1 A You sign a contract and the club owns you till they
2
3 get rid of you. That's about it. And they got rid of me a
4 few times.

5 Q Now, Mr. Garagiola, in your opinion is the reserve
6 system reasonable and necessary for the effective operation
7 of organized baseball?

8 A For me, yes.

9 MR. TOPKIS: Objection -- excuse me. Mr. Garagiola.

10 THE COURT: Wait, please.

11 THE WITNESS: I'm sorry.

12 MR. TOPKIS: Objection, your Honor. While the
13 witness is doubtless far more skilled as a ballplayer than
14 he suggests to the Court, I think to render an opinion on the
15 economic and legal subject that he has just been asked about,
16 his qualifications have not been demonstrated.

17 MR. HUGHES: Well, here is a man who has lived in
18 the system, your Honor, for a number of years.

19 THE COURT: I would like to get his slant. Objection
20 overruled. I will receive it.

21 You may answer.

22 MR. HUGHES: Would you like to have the question
23 again?

24 THE WITNESS: Yes.

25 THE COURT: Would you please read it,

Mr. Court Reporter.

(Question and answer read.)

THE WITNESS: Beautiful. Perfect. That's what I said.

THE COURT: He doesn't wish to add anything. That is his answer.

Q Now, have you ever given any thought to possible modifications or changes in the reserve system as you know it and understand it to be?

A If I had a chance to change would I do something about it?

Q Yes.

A I thought about it, yes, but I don't have anything, and when people ask me and use the words I have been hearing about modifications and we should have some changes and we should do this, to me this is the best system so far. Nobody's come up with anything. I think if they might change the name but have the same thing, everybody would be happy.

Q So in your thinking about it, you have come up with no feasible substitutes or modifications --

A No.

Q Is that right?

A Right, yes.

Q Mr. Garagiola, during the course of this trial there

1 have been references from time to time to bench warmers, and
2 in one instance Mr. Robinson described it as "the guys who
3 sit on the bench," and it has been suggested that there are
4 players who are not regulars, who, if they had the free
5 opportunity to move from place to place, could move to another
6 team and become a regular on that other team.

7
8 In your experience what have you got to say about
9 such a suggestion?

10 A Well, I have to laugh because I have heard that
11 all the time I have been playing. I was a bench warmer.
12 I played regularly, in my own opinion, one year, and the
13 guys that tell you that they can play regularly with other
14 ball clubs, sometimes the worst break they get is to get
15 traded. We used to get these great Dodger phenoms, who
16 used to sit on the bench, and sit on the bench when they
17 came to us, and that was it. If you can play, you can
18 play, and if you can't play, baby, you ain't gonna play.
19 It's that simple.

20 There are exceptions now, sure, where a guy gets
21 over there, but the general rule, a bench warmer is a blow-
22 out patch, that's all, by any other name. You are going to
23 play when the other guy can't.

24 Q Now, has it been your experience that these players
25 who are called bench warmers are really necessary to the

effective operation of a big league, major league ball club?

A 162 games you have to have somebody to fill in. I would say so. Somebody gets hurt, you're right there. I'd rather be on a big league bench sitting down and being there, ready to play than in some minor league where I can't, they got to call me up. Sure they're necessary.

Q Are they used for other purposes except filling in, in case of injury?

A Yes. You make the speech when a star can't show up, you do that. You get to play second games at double-headers, especially in Wrigley Field where there are no lights. Listen, I can tell you the best story --

THE COURT: No, I really --

THE WITNESS: I don't mean a story.

THE COURT: I know. We all appreciate it, but, you know, I hope you will understand, I am not criticizing, but we have got to get this evidence, you see, this testimony.

THE WITNESS: Yes, okay. Yes, sir.

THE COURT: And it is testimony under oath, and I know that you appreciate the significance of that, but you must just answer the particular questions.

THE WITNESS: Can I illustrate it with a story?

THE COURT: Sure.

THE WITNESS: Durocher said to me, when I joined the

Giants in '54 --

MR.TOPKIS: Objection, your Honor.

THE COURT: He asked me whether he could and I said yes, and I am going to stick to it. Objection is overruled.

THE WITNESS: When I joined the Giants --

THE COURT: Provided you make it short.

THE WITNESS: Short, 30 seconds.

When I joined the Giants, Durocher clinched the pennant, and Durocher said to me, "You catch. I don't want to get Westrum hurt."

Now, that's a tipoff. Westrum was the regular catcher, so what was I? I mean, I wasn't going to the Hall of Fame. End of story.

MR. HUGHES: I have no further questions.

THE COURT: Mr. Kramer, anything occur to you?

MR.KRAMER: Nothing occurs to me, your Honor.

THE COURT: Mr. Topkis.

MR.TOPKIS: I have no questions of this witness.

THE COURT: No questions. You are excused as a witness. You were on for, to be exact, 13 minutes.

THE WITNESS: Do I get paid for that?

Thank you, sir. I will go back to work.

THE COURT: Yes, you may go and do anything you please, as long as it is legitimate.