

UNITED STATES COURT

SOUTHERN DISTRICT OF NEW YORK

*John Cooper*  
2904

CURTIS C. FLORES,

Plaintiff,

vs.

HOWIE K. HORN, individually and  
Commissioner of Baseball, et al.

Defendants.

Before

HON. JOHN BEN COOPER,

District Judge

70 Civ. 202

2072

New York, June 10, 1970

EXHIBIT 1

SOUTHERN DISTRICT COURT REPORTERS

UNITED STATES COURT HOUSE

FOLEY SQUARE 7, NEW YORK

TELEPHONE: CORTLANDT 7-4580

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2 /Curtis C. Flood

3 v.

70 Civ. 202

4 Bowie K. Kuhn, et al.

5 New York, June 10, 1970

10:00 a.m.

6 (Trial resumed.)

7 - - -

8 THE COURT: Good morning.

9 Swear the witness, Mr. Clerk.

10 B I L L V E E C K, called as a witness by the plaintiff,

11 having been first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. TOPKIS:

13 Q Mr. Veeck, where were you born?

14 A Hinsdale, Illinois.

15 Q When?

16 A 9th day of February 1914.

17 Q Where did you go to school?

18 A I went to school in the Hinsdale Public High,  
19 public schools through grammar school. I went to Phillips  
20 Academy at Andover, to Hinsdale Township Public High School,  
21 to Los Alamos Ranch School, to Kenyon College and various  
22 night courses at Northwestern and Lewis University,  
23 Northwestern University in Chicago and Lewis Institute in  
24 Chicago.  
25

2 Q Was your father active in organized baseball?

3 A Yes, sir. He was president of the Chicago Cubs.

4 Q During what period?

5 A From 1921 through 1933 as I remember it.

6 Q He died in 1933?

7 A He died in 1933.

8 Q And did there come a time when you went to work  
9 for the Cubs?

10 A Yes, in 1933, in the latter part of October of that  
11 year. I had worked previously there during summers from  
12 1925 or '6 on.

13 Q From '25 or '6 until '33 what were your duties with  
14 the Cubs when you worked there?

15 A Well, they varied. I worked on what they call the  
16 Ladies Day Ticket Department, mailing out tickets and sorry  
17 notices to those people to whom we couldn't send tickets.  
18 I worked in the commissary, did a little bit of everything.

19 Q And in 1933 you went to work for the Cubs full-  
20 time?

21 A Yes, sir.

22 Q In what capacity?

23 A Well, I was first an office boy and then I went to  
24 work in the commissary department of the concessions, and  
25 then I went in the office without a title or any very dis-

tinct job; finally became assistant secretary and treasurer of the Cubs.

Q When was that?

A That was in 1940, as I recall.

Q And how long did you stay with the Cubs?

A Until 1941.

Q What did you do then?

A We purchased -- using the term somewhat loosely -- the Milwaukee Brewers, a minor league club that operated in Milwaukee.

Q You say you purchased, using the term somewhat loosely. What do you mean by that, sir?

A Well, the Brewers were about to go into bankruptcy, according to the banker and to George Troutman, then president of the National Association, the next day, and we assumed their liabilities and signed notes to guarantee the payment, and so we became the proprietors.

Q You say "we." Were you part of a syndicate?

A No. I had a partner, a minority partner, Charley Grimm, and I had, I think, 85 per cent of the club and Charley had 15.

Q I see. And you operated the Milwaukee Brewers for a time?

A We operated the Brewers from 1941 mid-season until

the end of the 1945 season.

Q You saw some military service during the war?

A 1943 until 1945, September.

Q In what branch?

A The Marine Corps.

Q And in 1945 you terminated your relationship with the Brewers?

A Yes, we sold the Brewers to Oscar Sallinger.

Q And what did you do then?

A Well, I went to Arizona and bought a ranch and then found that ranching was quite dull, cactus grew very slowly, and in 1946, in March, when the Chicago Cubs came through on their training trip, the urge exerted itself and I went on the road looking for a ball club to buy.

2 Q Did you find one?

3 A We purchased the Cleveland Indians in mid-1946.

4 Q In mid-season?

5 A In mid-season.

6 Q You say "we." Were you part of a group?

7 A This was a group, yes. I couldn't finance it  
8 individually. I had Mr. Phil Clarke, Mr. Arthur Allyn, Sr.,  
9 Mr. Newton Frye, and half a dozen local people made a  
10 syndicate and bought the club. I was the largest single  
11 stockholder.

12 Q Did you have an executive position with the  
13 club?

14 A I was president.

15 Q And were you responsible for operations?

16 A Yes.

17 Q How long did you remain with the Indians?

18 A Until 1950.

19 Q You had them, then, at the time they won their  
20 pennant?

21 A Yes.

22 Q What year was that?

23 A 1948.

24 Q And where were they when you bought them in  
25 '46?

2 A They were in sixth place.

3 Q There came a time when you sold your interest  
4 in the Indians?

5 A Yes, in 1950, end of the year.

6 Q And what did you do then?

7 A I retreated to the ranch again and then after --  
8 still finding it was pretty dull, we entered into negotia-  
9 tions for the St. Louis Browns in 1951.

10 Q And did you acquire the Browns?

11 A Unfortunately, yes.

12 Q You say "we" again. Again were you at the  
13 head of a syndicate?

14 A Yes, a syndicate composed of much the same group  
15 of gentlemen from Chicago, Mr. Clarke, Mr. Frye, Arthur  
16 Allyn, Sr., and some St. Louis -- Mark Steinberg, Elliott  
17 Stein and Sidney Solomon from St. Louis. Again I was the  
18 largest single stockholder.

19 Q Were you the chief executive officer of the  
20 Browns?

21 A Yes, I was president of the St. Louis Browns.

22 Q And chief executive officer?

23 A And chief executive officer.

24 Q How long did you stay with the Browns?

25 A We sold those -- well, we disposed of the

Browns in 1953, the end of the season in 1953.

Q What did you do then in baseball terms?

A Well, in baseball terms, I went out to Los Angeles working in conjunction with Mr. Phillip Wrigley in an attempt to get major league baseball on the Coast.

Q Were you successful?

A No, only by indirection. We worked out a very detailed report and found it was quite feasible. I was unable to sell the idea to either league to expand, but I believe Mr. Walter O'Malley used some of the surveys and stuff that we had made in determining his move to Los Angeles.

Q What was your next step?

A To a ranch in New Mexico, and I stayed there for a year and a half and then Mr. Stein and Mr. Solomon inadvertently bought a ball club in Miami and asked me if I would try and get it started for them.

Q What was that ball club?

A The Miami Marlins.

Q What league was it in?

A In the American Association -- I mean the International League.

Q That is a Triple A League?

A Triple A.

Q What did you do with the Marlins?

2           A       I was a kind of a commuting president. We got  
3 it started, we got the working agreement with the Phila-  
4 delphia ball club, I made a rental agreement with the  
5 City of Miami and started to acquire ballplayers, I brought  
6 in Mr. Satchel Paige and we survived. Then after having  
7 commuted back from New Mexico to Miami a couple of times I  
8 suggested that maybe we had better or they had better, since  
9 I had no stock interest in the ball club and had no salary,  
10 that they had better sell it, and we did manage to sell it  
11 to Mr. Storer, George Storer.

12           Q       When was that, sir?

13           A       That was in the same year. Let's see, that would  
14 be in 1956, as I recall.

15           Q       What did you do then?

16           A       Then I operated a public relations firm, small  
17 public relations firm, in Cleveland in '57, '58, and in  
18 '59 we purchased, with a group, the White Sox. This time  
19 we had Mr. Arthur Allyn, Mr. Newton Frye and Hank Greenberg,  
20 who was our -- was my principal partner. Hank and I  
21 controlled the ball club and we operated the White Sox.

22                   MR. GOLDBERG:   Mr. Veeck, can you give the  
23 names to the court reporter?   I saw he was having some  
24 difficulty.

25                   THE WITNESS:   Allyn , A-l-l-y-n, Arthur Allyn, Sr.

Frye, F-r-y-e, Newton, N-e-w-t-o-n; Phillip R. Clarke,  
C-l-a-r-k-e; Henry Greenberg.

Q Did you have an equity interest in the White Sox?

A Yes.

Q And did you hold an executive position with the White Sox?

A I was the president of the White Sox.

Q Chief executive officer?

A Chief executive officer.

Q How long did you stay with the White Sox?

A Until 1961.

Q What did you do then?

A Well, I went to Mayo Clinic for a few months and then I bought a place and retired at the suggestion of the doctors at the Mayo Clinic, bought a place in Maryland.

Q Did you sell your interest in the White Sox?

A Yes, sold it to Mr. Arthur Allyn, Jr.

Q In '61?

A In '61. Both Henry and I went out together and the rest of our group.

Q In the years since 1961, how have you been occupied?

A Well, I wrote a column for the Publishers

2 Syndicate, Chicago --

3 Q Is that the Chicago Sun-Times?

4 A Yes, and Daily News for about six years; did  
5 television shows for ABC Wide World of Sports, wrote a  
6 couple of books with Ed Linn, then did television shows for  
7 40 weeks with WFLD in Chicago. We taped five television  
8 shows every Sunday and they played across the board, not,  
9 as a matter of fact, on sports. And then I purchased --  
10 I shouldn't say that. We purchased the race track called  
11 Suffolk Downs in Boston.

12 Q And are you now connected with Suffolk Downs?

13 A I am president of the Suffolk Downs.

14 Q And chief executive officer?

15 A And chief executive officer.

16 Q Now, have you had any experience in sports other  
17 than in baseball?

18 A I worked for George Halas, the Chicago Bears,  
19 from 1934 to 1941.

20 Q That is the football team?

21 A Football team.

22 Q And in what capacity?

23 A Well, that's rather difficult to give a pre-  
24 cise answer. Since Halas was a tenant of the Cubs and  
25 I was working for the Cubs in those days, what started out

as representing the Cubs' interest in handling tickets and checking ticket sellers and being responsible for park operations, we passed on to George's payroll. So I ended up working for George rather than for the Cubs or in conjunction with the Cubs, you might say.

Q Did you have any connection with any other sport?

A Yes. I was a consultant for 20 years, I guess, of the Harlem Globetrotters with Abe Saperstein.

Q Mr. Veeck, in the course of your various involvements with baseball, did you make or lose money?

A I made money.

Q What was your net worth when you entered the ownership of baseball?

A When we arrived in Milwaukee I had \$11.

Q And when you sold out your interest in the White Sox in 1961, to avoid prying, would it be accurate to say your net worth was in excess of a million dollars?

A It was in that vicinity.

Q Had all or substantially all of that money been made in baseball?

A Yes, a kind of pyramiding, I presume you would call it, starting with Milwaukee. We had a successful operation and we took that money or I took that money and

2 borrowed some money and purchased the largest share of  
3 the Indians, took that money and purchased the largest  
4 share of the St. Louis Browns and we survived that with  
5 a profit only by selling the club and moving it. And  
6 then I took that money and put it into the White Sox. So  
7 we made a little bit of money, or quite a little for me,  
8 in each step of the various operations.

9 Q Down through the years, Mr. Veeck, did you  
10 on occasion lecture at various universities?

11 A Yes, I have spoken on a great many campuses.

12 Q Do you have any idea how many?

13 A I should say in the vicinity of 200 from UCLA  
14 to Missoula, University of Montana, from Harvard to Wake  
15 Forest to Yale, almost any campus university, Chicago, and  
16 so on, throughout the country.

17 Q Down through the years, Mr. Veeck, have you  
18 from time to time received any awards in connection with  
19 your baseball activities?

20 A I believe that I was once selected as minor  
21 league operator of the year and once selected as major league  
22 operator of the year.

23 Q By whom?

24 A Sporting News, who made that award.

25 Q Have you received various plaques, awards and

2 so forth?

3 A Every time you speak, you know, in lieu of  
4 money they are always nice. Actually, I think we could  
5 build a house out of them.

6 THE COURT: That is just to teach you there are  
7 things in life besides money.

8 THE WITNESS: Very definitely, your Honor.

9 Q When you retired from baseball by reason of  
10 your illness in 1961, did you receive an award from the  
11 American League?

12 A Well, I presume it was an award. It was a  
13 very nice citation or call it what you will. I have a  
14 feeling that maybe it was kind of in memoriam.

15 MR. TOPKIS: Your Honor, I have the award  
16 here, and since I am sure it is of some sentimental value  
17 to Mr. Veeck, I would rather not mark it in evidence, but  
18 might I be permitted to read its text. It is quite brief.

19 THE COURT: Of course.

20 MR. TOPKIS: It reads: "Tribute to Bill  
21 Veeck.

22 "It is a matter of deep regret to the American  
23 League that Bill Veeck has been forced by illness to divest  
24 himself of his interests in the Chicago White Sox and  
25 to resign from the presidency of that club. The American

2 League expresses its appreciation to Bill Veeck for his  
3 many valuable contributions to baseball, the league and the  
4 Chicago club, and extends sincere wishes for his speedy  
5 recovery to good health and to the personal vibrancy which  
6 has so characterized his career in baseball.

7 "Resolution unanimously adopted by the members  
8 of the American League of Professional Baseball Clubs at its  
9 meeting in Chicago on Monday, June 26, 1961."

10 Q Mr. Veeck, during your years in baseball, did  
11 you make any innovations in the operations of baseball clubs?

12 A Well, we tried to do some things occasionally  
13 a little differently. I suppose we were responsible or,  
14 as a matter of fact, we were responsible for what is now the  
15 greatest promotional gimmick in baseball, Bat Day. We  
16 bought stock of a bankrupt bat company in Arkansas, didn't  
17 quite know what to do with it, so we decided to have a bat  
18 day and we gave them to people. Some came turned, some not  
19 turned, some were just billets. We had about 8000 bats for  
20 \$1,000, which is a good price.

21 It was so successful we then tried it in Chicago  
22 on a little better scale. The Coca-Cola Company assisted  
23 us by paying for the bats, which is always of great assistance.  
24 This has become now an annual event at almost every ball  
25 park in the country and I think is responsible for the

largest crowd of every ball park in the country.

We also tried Ball Days and Cap Days and we started exploding scoreboards and we put the name of the players on their backs. You know, a lot of things like this. Father and son games. I suppose we did innovate a few things here and there.

Q Mr. Veeck, on a perhaps more serious note, did you have any role with the introduction of Negro players to organized baseball?

A Larry Doby was the first Negro to play in the American League, and we signed him in 1947.

Q That was when you were with Cleveland?

A Cleveland. In 1948 we brought in I guess the world's oldest rookie, Satchel Paige. I might mention probably also the world's greatest rookie.

Q Mr. Veeck, would it be accurate to sum up your experience in baseball by saying that you have seen baseball from every aspect of the managerial side for over 35 years?

A Yes, I think that would be a reasonably fair comment.

Q And have you had significant successes both financially and on the field?

A Well, we have been successful in some areas. We were successful both financially and on the field in Cleveland and we were financially successful in St. Louis

by indirection. We were artistically and financially successful in Chicago.

Q You say you were successful in St. Louis by indirection. Would you explain that, please, sir?

A Well, we did not operate. During the period of time we were there our operations were not profitable. We only recouped our losses and gained a profit by the sale of stock to the members of a syndicate in Baltimore.

Q When you sold the club?

A Right.

Q Down through the years, have you familiarized yourself with the history of baseball?

A Well, I think in the process of being in it as long as I was that you of necessity pick up some of the lore, some of the history, yes.

Q Have you read such documents as the Celler Report and Professor Seymour's book on the early history of baseball?

A Yes, I have. Part of the Celler Report.

Q During your years in baseball, did you have occasion to become familiar with the operation of what is known as the reserve system?

A Yes, I am quite --

THE COURT: Now we come to the heart of this

1963

2 case. Would you try to confine your answers to yes or  
3 no wherever possible?

4 THE WITNESS: Yes.

5 THE COURT: Unless the question calls for  
6 expansion.

7 THE WITNESS: Right.

8 Q The answer is yes?

9 A Yes.

10 Q Do you know what the term means?

11 A Reserve clause?

12 Q Or reserve system.

13 A Yes.

14 Q What does it mean to you?

15 A It means the right to reserve contractual  
16 negotiations to a player in a self-perpetuating clause that  
17 allows the player only to sign with the club holding his  
18 contract for that year. It perpetuates itself yearly or  
19 longer, if you should go into a longer contract.

20 Q And since leaving baseball, that is, since  
21 leaving an ownership interest in baseball, have you made  
22 it your business to stay familiar with the operations of  
23 baseball?

24 A Yes, I have tried.

25 Q I am sorry?

2           A       Yes.

3           THE COURT: Would you like to say something  
4 about your efforts in that connection?

5           THE WITNESS: I was merely going to say, your  
6 Honor, that I was continuously, last year -- for instance  
7 I should say I saw in the neighborhood of 30 ball games. I  
8 talked to and do talk to several owners rather continuously  
9 and several people who are not in ownership but who work  
10 for ball clubs.

11          THE COURT: It wasn't developed, but I take it  
12 that your lectures and your books relate to some phase of  
13 baseball?

14          THE WITNESS: On many occasions, depending  
15 on the audience, your Honor. Last night I spoke to the  
16 secretaries of executives in Boston and they are really  
17 not a baseball nor a track oriented crowd. So I talked on  
18 other subjects.

19          THE COURT: Such as?

20          THE WITNESS: In this case I talked on the  
21 fact that ours is becoming, I am afraid, a mechanized,  
22 computerized world and how one can oppose it.

23          Q       Mr. Veeck, are you familiar with baseball's  
24 adoption of the free agent draft?

25          A       Yes.

2 Q When did that take place?

3 A 1965, although it does seem to me that it  
4 might have been in the meetings of '64. I am not positive  
5 in my mind whether it was the '64 meetings or '65.

6 Q In any event, Mr. Veeck, you are familiar with  
7 the way the reserve system or reserve clause operates today?

8 A Yes.

9 Q Now, on the basis of your experience, Mr. Veeck,  
10 do you have an opinion as to whether elimination of the  
11 reserve system would help or hurt baseball?

12 A Well, the complete elimination of the reserve  
13 system or the reserve clause in contracts I think would  
14 not be helpful to baseball. I am afraid that if you suddenly  
15 terminated and there was no control of contracts by any  
16 club, that it could -- and I say only could -- result in  
17 some rather chaotic conditions. I feel, however, that this  
18 would not be the case if it were done in an orderly manner.

19 Your Honor, I might say I recall when the govern-  
20 ment was involved in a case with the duPonts regarding the  
21 divestiture of -- getting rid of their General Motors stock, and  
22 instead of dislocating the market they gave them a period of  
23 time so that there would be a gradual transition, and I think  
24 that this could be done in the case of the reserve system  
25 clause that wouldn't dislocate baseball horrendously and  
wouldn't cause any chaotic conditions.

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Veeck-direct

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Q Would you expect that if there were such a phasing out of the reserve system or a gradual elimination of it, would you expect that during that time and at the end, when the reserve system no longer existed, the wealthy clubs would buy up all the talent?

A Well, may I correct myself?

Q Please.

A I feel that there should be some kind of a contractual relationship extending over a period of years. In other words, you say when it is removed. I don't mean that. I don't mean it should stop and there should be nothing in its place.

Q What would you substitute for it, Mr. Veeck?

A Well, I would substitute a different form, a modified form of a reserve clause running over a period of years.

THE COURT: Will you expand on that? That is really what is the real purpose of your testimony. You go on and tell us what you think, what you believe should be the substitute for the present system.

THE WITNESS: Now, you must understand, your Honor, that I am not legally equipped to discuss the legalities of this. I am talking from a philosophical standpoint only.

THE COURT: We want it within the orbit of your under-

standing.

THE WITNESS: There are, I believe, several alternative plans that would be possible. One of them would be the substitution of a movie contract -- movie in quotes -- such as they use over a period of years in Hollywood to reserve the uses of the talents of the actors and actresses to a particular company. Obviously this would take tailoring by legal minds to make it fit baseball. But let us say that they did operate on the seven-year movie contract which called for scheduled raises at scheduled option periods. In other words, if you signed a contract, a potential star or a potential starlet to a contract, her original contract would call for, at the end of a year, a specific increase, at the end of two years, as her value increased, a greater increase, and so on to the expiration of the seven-year contract.

Now, this seven-year contract is renewable at any time. In other words, if you had had a star who is made a star by a couple of pictures, obviously he was bringing in more income to management than his recompense, at which time they could renegotiate the contract and extend it again another seven years. That is, in my opinion, an alternative.

The football contract that is used by the NFL and the AFL -- well, they are all one now -- with some modification is a potential form of contractual relationship.

jklbr 3

Veeck-direct

THE COURT: Does that have your hearty approval?

THE WITNESS: Well, with one exception, your Honor.

THE COURT: To wit.

THE WITNESS: You see, suddenly, after this contract was originally negotiated and after Mr. R.C. Owen had left the San Francisco club and gone to Baltimore, suddenly they decided that there should be a change in the contract and that is that the club should be entitled to just recompense for the loss of the services of the player. But such just recompense was to be determined by the two owners, and failing to agree on a fair amount, then the Commissioner would have the right.

Now, this has the difficult problem of no one knowing if they entered into negotiations with the player who had played out his 10 per cent option and was, to all practical purposes, a free agent, but not knowing what they would have to give for his services, so obviously this limited one's willingness to enter into a transaction, the end of which you can't guess, so that the limitation, I suggest, is that I think it is possible, in the case of the development of a baseball player, to estimate with some degree of accuracy, if one has all the figures available as to the costs, the cost of developing that particular and specific individual to a point where he has become, in quotes,

2 a major league player; that the club surrendering his con-  
3 tract is certainly entitled to this development cost.

4 From then on it seems to me that the club has had  
5 the value of his services for a period of time and that they  
6 should have, or otherwise they wouldn't have continued to  
7 hire him, felt that there was a value to the services and  
8 that that value must have repaid them for the development,  
9 if we will, of being a rookie to becoming a good ballplayer.

10 Q Mr. Veeck, these two possible substitutes for the  
11 reserve system that you have discussed, first, the Hollywood  
12 kind of contract and second, the pro football kind modified  
13 as you have suggested, in your view does the adoption of either  
14 of those substitutes operate to the prejudice of the manage-  
15 ment interest in baseball today?

16 A I don't believe so.

17 Q Could you tell us why not?

18 A Well, it appears that the great fear that operators  
19 have, and I, too, have had misgivings from time to time,  
20 even when I was operating, that there might be an opportunity  
21 for all the talent to gravitate maybe to a few clubs. I do  
22 not believe that to be true. I don't really think that the  
23 talent would gravitate to the wealthy clubs, and that seems  
24 to be the greatest worry, along with one that there would be  
25 an increase in unfortunate incidents in the game, that it would

destroy the competition and the desire to compete.

Now, if I may answer these backwards; insofar as the latter is concerned, I do not believe, and I refuse to believe that football players who have played out their options, play less well the last year when they know they are taking a 10 per cent reduction, in order to play out their option; I refuse to believe this. I don't believe, for instance, that Jim Nance of the Boston Patriots could have had a much better year than he had last year, even though he played out his option. I don't believe that once a contract is agreed upon and it is a fair contract, and both sides feel that it is a fair contract, that in my opinion ballplayers do not play for money, but play for pride. It is my opinion that they would continue to play for pride.

Now, I have heard some conversation that before the adoption of a reserve clause, that in the '80s and '90s there were a lot of ballgames played under suspicious circumstances and there were games being played back and forth, but with the adoption of the reserve clause there were also some games played under rather strange circumstances, like in 1919, and I don't think that you are going to change the nature of the animal. I think that you always have to be vigilant, but I do not think that the ab-

2 sence of a continuing reserve clause would affect the  
3 legitimacy of the athletes. That is the first thing.

4 The second one, insofar as the ballplayers gravi-  
5 tating to the wealthy clubs, we first have to address our-  
6 selves to what constitutes a wealthy club. Is it a fellow's  
7 personal fortune? But he usually has a corporation oper-  
8 ating the club, and the club is operated by the corpora-  
9 tion with the exception of Mr. Tom Yawkey. I know of very  
10 few people who have ever put up as much or anywhere near as  
11 much money individually. He loaned money to the franchise,  
12 and he is, in my opinion, a very fine sportsman. But I don't  
13 know many people who have been in a similar position who  
14 have advanced funds.

15 Let us take, for instance, the case of the Yankees.  
16 The Yankees' dominance of the American League is, in my  
17 opinion, not because they were the wealthiest club, because  
18 they weren't, with Mr. Topping and Mr. Webb, and even before  
19 with Mr. Ruppert, but they did have in their employment three  
20 remarkably good scouts, a fellow by the name of Joe Devine  
21 from the West Coast, a fellow by the name of Bill Essex from  
22 the Middle West and a fellow by the name of Paul Kritschell  
23 from the East Coast, and though it grieves me to say it,  
24 they had probably the best administrator in the game in a  
25 fellow by the name of George Weiss, with whom I did not see

eye to eye on much of anything except that he is a very talented man, and it is, in my opinion, these three fellows rather than any wealth that controlled and guaranteed the steady flow of talent to the Yankees.

Now, the Yankees, when these three fellows died or retired, the result was not one that you could see immediately, because they had this continuous flow of talent, but it was one that insured for another decade that they would have the best ball clubs and they did.

So I think that this is not a question of the dollars. I think that it is a question of the ability of the people operating and their willingness to work hard.

It has been said with some degree of reason, I think, that those people who have become extremely wealthy and extremely successful are less likely to be hustling and scuffling and working. It seems to me also that if you look historically, the St. Louis Cardinals certainly were not the wealthiest operation under Mr. Rickey and Mr. Sam Braden, yet Mr. Rickey devised a system which made the Cardinals a tremendous power, not only in the National League, and not only from the players that they had on their team, but from the players they adopted or developed in abundance and were able to trade elsewhere and sell elsewhere.

I feel that it is not at all possible for one club

to corral all the talent and buy it. Mr. Yawkey once tried to buy some very outstanding ballplayers and put together a winning team which failed, and scufflers like I am were able to get lucky in Cleveland with a little town and draw some people. So I don't think that this is a worrisome problem. I do not think they will gravitate.

Q You mentioned Mr. Yawkey, Mr. Veeck. Just so the record may be complete, that is Mr. Tom Yawkey?

A Mr. Tom Yawkey.

Q Of the Boston Red Sox?

A The owner of the Boston Red Sox.

Q So that in your view neither of these substitutes that we have been discussing for the present reserve system would necessarily operate to the detriment of the management side of baseball?

A No. I think that it is quite possible that they might work out to benefit management.

Q And would they affect the level of competition on the field?

A I do not believe so.

Q The level would remain high or be high?

A Well, the level would remain as high as it is, if there were no further expansion.

Q Now, in your view, would the adoption of either

of these substitutes harm or benefit the players' interests?

A I believe that they would benefit the players in several ways.

Q Would you please tell us what they are?

A First, I believe that everyone should once in their business career have the right to determine their future for themselves, whether one be an attorney -- you shouldn't, just because a firm wanted you, be held by that firm forever in perpetuity. So that I believe that every person, every human being has a right to determine, at least once, some phase of his business life, as I say, either where he is going to play originally, which is precluded by a draft -- at least for practical purposes it is, although theoretically I suppose one could outlast all the drafting periods and end up with one city -- or to have the right to determine whether he wants to renegotiate with a different team after a period of time, after he has served his apprenticeship and returned value received to the club that did, in part at least, help to develop him.

The next thing I think is that in the matter of contractual negotiations there might be a little fairer balance arrived at between the ballplayers who are entitled to X number of dollars and those who get 3X. Once, when I was in Chicago many years ago, Mr. Philip Wrigley had an

idea that he could try and pay the players yearly, starting with a base salary, and if they showed any improvement he would increase it without reductions from the base salary. But this became such a difficult thing to determine on the balance of, which would be the fair way -- in other words, you were going to get paid today for what you did today and a year hence you would get paid for what you did a year hence and so on for the balance of your career. But it was very difficult to determine and to keep it a workable process, doing it monthly, and it was abandoned. But I do think that there are a lot of ballplayers, a lot of ballplayers who would profit by being able at some time to go or to renegotiate a contract in place of leaving. I think there are some ballplayers who are not playing because in this particular club there are other athletes who may be just a step better than they, but who could play with many other teams, and I think to some extent this would spread the talent more fairly, and if one could play out their option and then renegotiate with another club, I think this would be beneficial to the game itself, and I think there would be a tendency then to balance the talent.

Q Would the adoption of these substitutes, one or other of these substitutes, in any other way benefit the players' interests?

1  
2 A Well, I think that it would certainly help the  
3 players in the game itself to no longer be one of the few  
4 places in which there is human bondage. I think it would  
5 be to the benefit of the reputation of the game of baseball,  
6 and I would like to mention just for the record, I happen to  
7 think of baseball as the greatest team game there is. I  
8 don't happen to agree with all they do, and often I am very  
9 unkind about my statements, but I still think it is a game  
10 that deserves to be perpetuated and to restore it to the  
11 position of honor it once held, and I think this would be  
12 a step in that direction. At least it would be fair.

13 Q In your view would employer-employee relations in  
14 baseball be furthered or disadvantaged by reason of the  
15 adoption of either of these substitutes?

16 A That is a very difficult question. I can't really  
17 make an honest answer because over a period of time, at first  
18 there might be some feeling that management had been outwitted  
19 or vice-versa, but I think that over a period of time it  
20 comes to -- I don't believe that most athletes want anything  
21 but a change, a small change, a step in a direction, and  
22 I think that if they got that, the relationship would be much  
23 better between player and management, if you call it that.

24 Q Mr. Veeck, we have been discussing two possible  
25 substitutes for the reserve system. Are there any others

in your judgment that might be --

A Yes, I think there are other variables on the theme. I think that it might be possible to operate under two kinds of contracts, one taking into effect the development period to be superseded by a five-year contract once a ballplayer arrives in the major leagues on a permanent basis.

Q Have you thought of any other possibilities?

A Yes, but I must admit at present I have a complete blank on them.

Q It has been suggested in testimony here, Mr. Veeck, that the reserve system as it operates today is indispensable in order to protect the clubs' cost of developing players in the minor leagues and in their first years in the major leagues. Would it be your judgment that the reserve system, as it operates today, is indispensable to that end and is the only way to secure a flow of new player talent to the major leagues?

A Well, no, I don't think it is the only way.

Q Would you expand on that, please?

A Well, there is direct and indirect subsidization of the minor leagues at the present time. It would seem to me that one of the things that could be done, which has nothing to do with the reserve clause or anything else, is the subsidization of college conferences rather than --

Mr. Kauffman has suggested a way to expend the money to develop players which wouldn't necessarily take into consideration a reserve clause; that is the establishment of a baseball college. I think you will find that somewhere in the blue book there is a mention that since the supply of talent is less than the demand, that the limits on ball-players should be reduced, that is, the number of players under control or held to a minimum. I don't think that the reserve clause has anything to do with the development of playing talent except in one respect, and that is that theoretically, and it is only theoretically, that if you don't have these subsidized minor leagues that you won't have a flow of players from them, and I offer the fact that you can still subsidize the minor leagues directly and you can still have the advantages without keeping a fellow perpetually under a reserve clause; that under alternative plans it will work just as well in the minor leagues and might be better.

Q Specifically what alternative plans would you envisage?

A Well, again I am talking about alternative plans of contractual relationship, of a movie contract which has nothing to do with, but pays the ball club for -- wait a minute -- a movie contract continued into a minor league

contract which would start to recompense them if the player left.

Is that clear? That seemed to me a little vague.

Let me --

THE COURT: Take your time. No one is rushing you.

A If you had a contract operating until the player has become a major league ballplayer, and if he then signed a second contract as a major league ballplayer for a period of time, five years, seven years, and had the right at the end of that time to terminate the contract and negotiate for his services elsewhere, then the original club would be repaid for the amount that they had expended in getting him to be a major league ballplayer. So I don't see how this would affect adversely, and might affect favorably, the cost of development.

Second, if the player signs a movie type contract with a ball club, and upon the expiration of his contract or of his playing out his option, decides to go to another team and the original team is recompensed in dollars the cost of their development, then you have the same situation that exists today in football. Football has their players developed by colleges, and when they arrive, football has had, other than the cost of scouting, no cost for the players. In many cases this is not true of baseball. Baseball, in

my opinion, being a more difficult game to play, takes more time to develop the players, so that there is some demonstrable cost. But if they receive that back, then when a ballplayer becomes a major league ballplayer he is in exactly the same basis as a football player is coming out of college, and the football player has an option, has the right to play out his option, so how would it affect it if the baseball player had the same right?

Q And in that way you envisage it would be possible to compensate a club for its player development costs --

A Yes.

Q -- and yet leave the player free to deal with someone else if he so desired?

A Well, for the player that is leaving. In other words, I don't believe that you can put all the costs of player development on one or two that you have that play out their option and go elsewhere.

Q I see. Would it be your idea, Mr. Veeck, that a club might sign a player when he enters the minor leagues to a contract for a term of years which would run through his normally anticipatable period in the minors and for a few years into the majors?

A Yes, that is one possibility. That would be like the movie contract with the seven-year period, and they

anticipate that when they first sign a young actor or actress, she is not going to be a great star, but they compensate for her development by increased salaries, and they then gain the benefit of this as they do become stars.

Second, you can do the same thing with almost any kind of contract, merely by extending its length. If it is five years in the major leagues that you want to achieve as a fair time before a fellow can renegotiate his contract or negotiate for himself, then it is quite possible you would add two years in the minor leagues to it or two and a half years, but this can be done by statistics and by figures.

Q Would it be your judgment that on the average it would be possible for a club to recoup its development costs of a major league player by having him bound to it for a period of over five years?

A It would be, in my opinion, sir.

Q It has been suggested here, Mr. Veeck, that in any system other than the reserve system as it operates today, that is to say, in any substitute system where a player had some degree of freedom to go to another club, the result of that system would be that clubs would lose key players and their playing effectiveness would be destroyed.

Do you share that judgment?

A Well, it would seem to me that if you have a player

that is so important that your team is built around him, that you would not be so foolish as to wait until the last day of his contract before renegotiating it.

It would also seem that one would exercise care in making sure that the ballplayer was reasonably happy and reasonably well content with his plight. It does seem to me that one of the things that ballplayers don't like to have happen is to have them disoriented. They like, after having played in a city for a period of years, they like to stay in that city, so there is an advantage to the club that originally has his contract, if this thing would operate, if he would spoil a team by leaving. There are a lot of so-called outstanding stars that have been traded, and that may change the balance of a club also --

Q Mr. Veeck --

A Or sold, as I had to do on occasion to keep alive.

Q Mr. Veeck, it has been suggested that some of the clubs, by reason of their gate receipts or their revenues from television and radio, have much greater resources than others and so, were there any relaxation of the reserve system, would be in a position to buy up all the talent.

You have told us already your views as to the likelihood of the clubs buying up the talent, but let me ask you this, if I may.

Are there techniques available by which the resources of the clubs from gate receipts and television and radio might be more evenly allocated?

A Yes. I once had the temerity to suggest that at a meeting, that the television moneys be pooled and that the visiting club get a larger share of the gate receipts, which would tend to balance the income and reduce the number of disaster areas as compared to the clubs that are doing extremely well.

Obviously the larger markets have a greater potential television value and, if this money all were to be used for player development, I suppose in theory it

2 would give them an advantage, but from the things I  
3 mentioned earlier, I don't think from a practical standpoint  
4 this is true. But I do think, and have thought for some  
5 years, that there should be an equalization of the extraneous  
6 advantages to a ball club such as television. After all,  
7 it takes two teams to put on a game, and I do think, par-  
8 ticularly in the moving around that has happened in ball clubs,  
9 that the visiting club that also puts on a show might be  
10 entitled, as he is in football, to a larger share of the  
11 per game income.

12 Q Do you know of any technological or other  
13 obstacles in the path of adopting such a higher degree of  
14 equalization?

15 A No, I don't know of any others. I think it  
16 would work.

17 Q You made this suggestion, you said, at a meeting.  
18 Who attended the meeting?

19 A At a league meeting in Phoenix.

20 Q Of the American League?

21 A Of the American League.

22 Q When was that, approximately?

23 A Oh, that must have been about 1952.

24 Q Was your suggestion adopted?

25 A No, it wasn't.

2 Q Was a vote taken on it?

3 A I didn't get a second.

4 Q Mr. Veeck, there has been testimony here that  
5 one possible modification that might be made in the reserve  
6 system would be the adoption of a rule whereby if a  
7 player and a club were unable to agree on the player's  
8 salary for a coming year, both the player and the club would  
9 have the right to arbitration of that dispute by an impartial  
10 arbitrator.

11 A I think that would be a splendid idea.

12 Q In your view, would it hurt or help baseball?

13 A I think again it would help. I think that it  
14 would create a little better relationship. Just the right  
15 to have an arbitration, the right not to be feeling that  
16 you are singly, as an athlete, negotiating against the wealth  
17 of a ball club, I think it would improve relationships. I  
18 think on many occasions that the club itself might profit  
19 a little bit, that on occasion ballplayers have been somewhat  
20 unrealistic in their various demands. So I think it would  
21 be beneficial from both ways.

22 Q Mr. Veeck, in your judgment -- you have  
23 invested in many baseball clubs -- would modification of the  
24 reserve system along the lines that we have been discussing  
25 or adoption of one or another substitute for the reserve

system deter investment in baseball?

A Well, I can only speak for myself. If I were going to invest in a ball club it would not deter me.

Q Your degree of eagerness would not be affected one way or another?

A No, not in the slightest.

Q And would you expect baseball as a whole to prosper or suffer harm by reason of the adoption of any of these alternatives we have discussed?

A I think it would prosper.

MR. TOPKIS: May I have just a moment, your Honor?

THE COURT: Yes. I wonder, Mr. Topkis, whether you would like a short recess to gather your remaining points together and continue, or would you like to go right on now?

MR. TOPKIS: I would welcome a recess, your Honor.

THE COURT: Announce a short recess.

THE CLERK: Short recess. All rise.

(Recess.)

MR. TOPKIS: If your Honor please, we have concluded our direct examination of Mr. Veeck.

THE COURT: Very well.

MR. HUGHES: Your Honor, Mr. Kramer will conduct

the cross-examination.

THE COURT: Certainly.

CROSS-EXAMINATION BY MR. KRAMER:

Q Mr. Veeck, how did you happen to come here today? Did plaintiffs ask you or did you ask them?

A No, they asked me.

Q When did they first ask you to come? I mean when did they first talk to you about it?

A I should guess about four weeks ago. Maybe not quite that long, but somewhere in that vicinity.

Q It was after the trial had started?

A Oh, no.

Q The trial has been on three weeks and a few days.

A Then it was six weeks ago. I really can't give you the exact date.

Q Who called you?

A Justice Goldberg.

Q Did you talk with Mr. Greenberg about his testimony before?

A No, I did not.

Q Have you talked with him about it since?

A No, I have not.

Q Has Hank Greenberg been your partner in some

2 of your baseball ventures?

3 A He has, indeed.

4 Q How many -- two or three?

5 A He has been a partner, and by a partner do you  
6 mean financially a partner?

7 Q Yes.

8 A In one.

9 Q Was he connected with you in some other way in  
10 any others?

11 A Well, he was part of our management operation  
12 in Cleveland, but he was a financial partner with me only  
13 in Chicago.

14 Q So that he was a partner of one kind with you  
15 in Cleveland and a financial partner of yours in --

16 A He worked for the ball club in Cleveland, as  
17 I did, and he was a financial partner in Chicago.

18 Q He had no money invested in the Cleveland  
19 Indians?

20 A That I can't say. After I left, I don't know.  
21 I sold the ball club and Henry became general manager -- yes,  
22 he did have some money involved. I can say that he had  
23 an investment.

24 Q Have you read Mr. Greenberg's testimony?

25 A No, I haven't.

Q Have you read any newspaper accounts of it?

A Only that he suggested that a five-year period of time would not be unworkable, in his opinion, as a contractual relationship between player and team.

MR. KRAMER: Could I have that read back, if your Honor please?

THE COURT: Surely. Would you read the question and the answer, please.

(Record read.)

Q Mr. Veeck, referring now to your testimony about contracts analogous to the movie industry, at which time in your testimony you mentioned seven years, later you said possibly five years, how long have you held those views, namely, that such a system would be a good system for baseball?

A That specific contract or for some years?

Q A contract limited to either five or seven years in duration.

A For a period of years.

Q Yes?

A I mean I have held that opinion for a period of years.

Q Can you be more specific? The last ten years, the last twenty years?

2 A I can't tell you exactly when an idea occurs.

3 Q Can we agree, Mr. Veeck, that the gambling  
4 on big league baseball is tremendous?

5 A Well, I am told through hearsay that it is  
6 tremendous. I know nothing about gambling on baseball  
7 through personal knowledge.

8 Q Do you believe that more money is bet on base-  
9 ball than any other sport, including horseracing?

10 A I have heard that.

11 Q You heard that?

12 A Yes.

13 Q Now, you mentioned that you were the author  
14 or perhaps the co-author of a couple of books.

15 A Right.

16 Q I have them both here. I am going to mark them  
17 for identification. Then I am going to give them to you  
18 and ask you to follow along as I ask you questions from  
19 your writings.

20 MR. KRAMER: I ask to have marked as a Kuhn  
21 exhibit for identification --

22 (Defendant Kuhn Exhibit G marked for identi-  
23 fication.)

24 MR. KRAMER: -- "Veeck As In Wreck."

25 And as Kuhn Exhibit H for identification, Mr.

xxx

2 Veeck's book entitled "The Hustler's Handbook."

xxx 3 (Defendant Kuhn Exhibit H marked for identi-  
4 fication.)

5 MR. KRAMER: If counsel for the plaintiff would  
6 agree, I would say I found "Veeck As In Wreck" an extremely  
7 enjoyable book. I recommend it to everyone within the  
8 sound of my voice.

9 Q Is it out of print, by the way?

10 A Yes.

11 MR. GOLDBERG: Your Honor, since we have been  
12 asked to agree, we agree and we would hope it would extend  
13 beyond Mr. Kramer's voice.

14 Q Now would you turn, please, to Page 205 --

15 A I will, if you will give me the book.

16 Q -- of "Veeck As In Wreck."

17 A 205?

18 Q Yes.

19 A Right.

20 Q Don't you see there that you wrote -- by the  
21 way, when was that book written?

22 A Baseball attacks the problem of gambling from  
23 the wrong end. I say that gambling on big league baseball  
24 is tremendous.

25 Q Don't you also say that you believe more money

1 is bet on baseball than any other --

2 A Yes, I do say that.

3 THE COURT: You are extremely alert and you  
4 are rushing your answers before we get the questions.

5 A I do say in here that -- "More money is bet on  
6 baseball, I think, than on any other sport, horseracing,  
7 included."

8 THE COURT: The question to you is when was that  
9 book published?

10 THE WITNESS: I am sorry. I didn't hear that.  
11 Some years ago. 1962.

12 Q Now, can we agree that the moral climate of the  
13 United States today is no higher than it was in 1919, the  
14 year of the White Sox scandal?

15 A I am not in a position to make a definitive  
16 answer to that question. I am really not an expert on the  
17 moral nature of the country.

18 Q Look at "The Hustler," Page 299, rather,  
19 "The Hustler's Handbook." Tell me if that isn't what you  
20 said there.

21 A Well, that's what I say. I say:  
22 "Anyone who thinks the moral climate of the  
23 United States today is higher than it was in 1919 hasn't  
24 looked out the window lately."  
25

2 THE COURT: When was that published?

3 THE WITNESS: That was published in 1965. So  
4 I could still be accurate. Maybe it has improved in five  
5 years.

6 Q Can we agree, Mr. Veeck, that anything that  
7 can be done to make play more equal on the field is a step  
8 towards achieving perfection in baseball?

9 A Very definitely.

10 Q Right. Can we agree that perfection can be  
11 achieved if each team ends up each season with .500?

12 A Yes.

13 Q Can we agree that trading of baseball players  
14 by clubs is an exciting part of the game both to the fan  
15 and to the clubs?

16 A Well, it is probably the hideous part of operat-  
17 ing a ball club. Dealing in a human animal is still  
18 unusual, and guessing whether you have made a good or a  
19 bad trade is a very, very weighty part of the thrill of trying  
20 to pitch your luck against somebody else's. I think it  
21 has a part to be enjoyed by the fans. I think the fans  
22 feel when your ball club is going badly and you make a  
23 trade that there is going to be some immediate improvement,  
24 but there isn't. So from that standpoint, when you have  
25 made a good deal you have made your fans happy.

So I think the trade is a very integral part of baseball and is enjoyed by both management and fan, but not so much by the player.

Q Right. Can we agree that the value of many major league ballplayers is not evident in the statistics on those ballplayers?

A The value?

Q Yes.

A Yes, I think there are some players who have a lesser value on the open market than they really have to a particular club, and there are some ballplayers who have a much inflated value. So it goes both ways.

Q What I was driving at, Mr. Veeck, and I may not be right, and I want you to tell me if I am wrong, is that you can't always tell the value of a ballplayer simply by looking at his statistics? Isn't that right?

A That is correct.

Q If you look at The Hustler's Handbook, at Page 120 you said there: "Their value is in their knowledge, their opportunism, and their ability to make the right play at the right time."

Now, do you still stick to that?

A I just agreed that it was true, so obviously I still think the same.

Q Right.

A I was speaking of Dick Groat or an Eddie Stankey, who may not have the physical ability of others but make up for it in other ways.

Q Can we agree when you were running the Cleveland Indians it was your trades that built the club from a sixth place team to a pennant winner in two years?

A No, I shouldn't think that we can agree on that. I think that had some part in it.

Q Look at Veeck-As In Wreck, Page 143.

A I will.

"The trades that built Cleveland from a sixth place team to a pennant winner in the space of two years are worth going into because they show how a team is pieced together."

Q Thank you, Mr. Veeck.

A I should also --

Q If you want to say something, go ahead.

A I think that if I read part of this I should also then read anything that has to do with this particular subject. I also in the book, if you will recall, make mention of the fact that the phenomenal play of Lou Boudreau really -- he carried the team on his back to a pennant. So it is a combination of things, as I testified

originally.

Q Thank you. Can we agree that trades are so important to the game that when you traded Reynolds for Gordon of the Yankees in 1946, that trade had a great deal to do with your winning the pennant for the Indians?

A With both clubs winning pennants.

Q Right. Can we agree that in the trading of Mr. Flood from Cincinnati to St. Louis, Flood got his chance to show his stuff and without that trade might never have been able to show his stuff with Cincinnati?

A That is a hypothesis that is not necessarily based on fact. It is pretty difficult to tell what might have happened. I am not that much of a wizard.

Q Fine. I would like you to read into the record at this point what you said about Mr. Flood in The Hustlers Handbook, Page 140 and 141. Let me show you the part I mean before you start.

A You mean I can select my --

Q I am afraid not. It is The Hustlers.

A You only want parts of it?

Q I want to make sure you read what relates to Flood.

A All right, I will try to.

Q It starts there, as I understand it, and it

2 ends there (indicating).

3 THE COURT: Wait a minute. I am sorry. In order  
4 to avoid criticism, and it would be just, I think, the Judge  
5 is sitting here and allowing extracts of a book marked for  
6 identification to be read into the record. That is not  
7 according to Hoyle. Now, what do we do?

8 MR. KRAMER: All right, Judge, I will ask the  
9 proper question.

10 THE COURT: If there is no objection, then I  
11 suppose it is acceptable.

12 MR. TOPKIS: Perhaps we could simplify the  
13 matter and have the books received in evidence.

14 MR. KRAMER: I object to having the books  
15 received in evidence.

16 THE COURT: On what basis have you the right  
17 to read anything that is not in evidence?

18 MR. KRAMER: None whatever if anyone objects.

19 Q Now read to yourself, Mr. Veeck, the checked  
20 passages regarding Mr. Flood and tell me if it is not the  
21 fair import of that passage that it was your opinion when  
22 you wrote that if the Flood trade had not been made from  
23 Cincinnati to St. Louis, Mr. Flood might never have had a  
24 chance to show his stuff?

25 A I don't say that. What I say in here is that --

and I am not going to read it.

THE COURT: All right.

A I say in here that hindsight tells us, which is the way I started. I say hindsight tells us that the Flood trade was the thing that started Bing Devine to putting together a successful club in St. Louis. I do not say that Flood would not have been just as successful in Cincinnati, or I do not say that he would not have been even more successful, but what I do say is that Mr. Devine, unless he had gotten someone else, would not be more successful.

Do you want me to read that?

Q I do, yes, that paragraph there, "Flood remained."

A I say "Flood remained a not outstanding ballplayer for three years until he suddenly developed" -- come back and see that is what I said.

Q I want you to read that paragraph.

A Which one?

Q "Flood remained."

A I just did. I said he remained a good fielding, no-hit outfielder for the Cards -- a good ballplayer for three years until he suddenly developed into an outstanding hitter. I think all the statistics and records will prove that to be true.

MR. KRAMER: Your Honor, it is my position

that the witness has repudiated what he said in the book.  
I don't know how to proceed now without reading the passage.

THE WITNESS: How have I repudiated it?

THE COURT: No.

THE WITNESS: I am sorry, your Honor.

THE COURT: To each his own.

THE WITNESS: Right. I am sorry, your Honor.

MR. GOLDBERG: May I make a statement about  
that, your Honor? Mr. Kramer said he has repudiated what  
he said in the book. There is one way to determine that.  
Let the book go into evidence.

I can not understand this great reluctance to  
let the whole book go in and this great insistence upon  
having an isolated paragraph go in. We had that experience  
earlier in the trial and it leads nowhere, and if he has  
repudiated what he has said in the book, the book will tell  
the story.

MR. KRAMER: If your Honor please, I didn't say  
he repudiated everything he said in the book. I said he  
repudiated a paragraph in the book and I want the paragraph  
in evidence if I may have it.

THE COURT: Step up, gentlemen.

(Discussion off the record at the side bar.)

(In open court.)

1 THE COURT: (addressing newspaper reporters)  
2 Gentlemen, I am sorry. Your deportment has been exemplary  
3 up to this point. Would you keep it that way on the final  
4 day. I have to hear what they have to say.  
5

6 (Discussion off the record at side bar continued.)

7 (In open court.)

8 THE COURT: It is the ruling of the Court that  
9 if counsel does not wish to offer the entire book or books,  
10 that is within counsel's right, but the Court will not  
11 permit the reading of portions of a book which has not been  
12 received in evidence and, accordingly, we direct that there  
13 be marked in evidence the particular passages to which  
14 the witness's attention has been referred and they will,  
15 those passages, be considered as in evidence.

16 At this time the book in its entirety is not  
17 being received.

18 Counsel for the other side will have full oppor-  
19 tunity to confer with the witness and the witness undoubtedly,  
20 based on the alacrity of his responses before me, will  
21 have no difficulty, I am sure, in pointing out what the  
22 books contain to answer the specific passages to which his  
23 attention is directed on cross-examination.

24 Now, can we go back a bit and mark in evidence  
25 the specific pages which the witness has read in the

record or, better still, we will consider those pages read into the record already as exhibits in evidence.

MR. KRAMER: If your Honor please, I offer in evidence Pages 140 and 141 of The Hustlers Handbook, which is now marked as Defendant Kuhn Exhibit H for identification. I would like to state that in offering those pages I am offering more than everything I could find in the book relating to Curtis Flood.

THE COURT: Very well. Received. Mark it, Mr. Clerk.

Now I think it would be wise to have it read into the record.

(Defendant Kuhn Exhibit H-1 received in evidence.)

THE COURT: Either you do it or we will have the author do it.

MR. KRAMER: Whichever your Honor pleases.

THE COURT: That is up to counsel.

MR. KRAMER: I would like to get counsel's agreement that the only parts of those pages that relate to Curtis Flood start on Page 140 and ends on Page 141.

MR. TOPKIS: If Mr. Kramer tells us, it is true.

THE COURT: That is true.

MR. KRAMER: "Devine's first great trade at

2 St. Louis, hindsight tells us, was getting Curt Flood from  
3 Cincinnati. This is a trade which is interesting because  
4 it illustrates an important point. Every major league  
5 club scouts every other club's players almost as thoroughly  
6 as it scouts its own. If you get interested enough to send  
7 out a top scout like Mayo Smith or Charlie Metro, for a  
8 full-scale appraisal, you'll end up knowing just about as  
9 much about the player as the team that owns him.

10 "Devine knew that Cincinnati had another center-  
11 fielder in their system, Vada Pinson, who looked as if he  
12 was one of the great prospects of all time. Pinson had  
13 everything Flood had, plus even more speed and considerably  
14 more power. When Cincinnati had Flood fooling around in  
15 the infield, that was the signal for Bing to make his move.  
16 Gabe Paul has never been famous for undervaluing his players.  
17 In this case, Cincinnati needed some relief pitching badly,  
18 and Devine was able to pry the 20-year old Flood away from  
19 him for three minor-league relief pitchers of exceedingly  
20 limited ability.

21 "Flood remained a good fielding, no-hit out-  
22 fielder for the Cards for three years before he suddenly  
23 developed into a top big-league hitter. So the question  
24 remains: Just what would the Reds have done with him  
25 during those three years."

2 THE COURT: Now what question do you wish to  
3 address, if any, to the witness with respect to the exhibit  
4 just read into the record?

5 BY MR. KRAMER:

6 Q I want to know, Mr. Veeck, whether or not we  
7 can agree that in the trading of Mr. Flood from Cincinnati  
8 to St. Louis, Flood got his chance to show his stuff and  
9 without that trade he might never have been able to show his  
10 stuff with Cincinnati?

11 A I think that I said earlier that there is no  
12 question but that he did get a chance in St. Louis. I said  
13 also that there is no way to know whether he would have  
14 at some time been as successful in Cincinnati. There is no  
15 way to know that they wouldn't have moved Pinson to another  
16 position. There is no way of knowing what the result would  
17 be. But it is, as I have written in here, and I am not  
18 repudiating anything I wrote in here, although sometimes I'd  
19 like to, that he did get a chance in St. Louis that he may or  
20 may not have gotten in Cincinnati.

21 Q Thank you. Can we agree that starting in 1952  
22 you advocated an unrestricted minor league draft?

23 A Yes.

24 Q Can we agree that, in brief summary, an unrestricted  
25 minor league draft means that any minor league player would

1 be eligible to be drafted by any major league team in  
2 baseball after his first year in baseball?

3  
4 A Yes.

5 Q Can we agree that in your opinion the failure  
6 of baseball to have an unrestricted minor league draft  
7 caused absurdly large bonuses in sums up to \$100,000 to  
8 be paid to untried and untested kids just out of high school?

9 A That was the result of it, yes.

10 Q Can we agree that some time around 1961 -- it  
11 may have been a little bit before; I don't recall -- baseball  
12 finally adopted an unrestricted draft although a watered  
13 down version of your proposal?

14 A A considerably different proposal than mine.

15 Q Look at Veeck-As In Wreck, Page 251, please.

16 THE COURT: Are you offering that?

17 MR. KRAMER: No, I am asking him to refresh  
18 his recollection.

19 THE COURT: That is different.

20 MR. KRAMER: Thank you.

21 A Well, that's what I said.

22 MR. KRAMER: Could we have the last question  
23 and answer read back?

24 THE COURT: Sure. Would you, please, Mr. Court  
25 Reporter.

(Record read.)

Q Mr. Veeck, don't you think you could say the answer to my question is yes?

A I could say a lot of things, but it was a considerably different unrestricted draft than I proposed.

Q All right, I will pass on.

Can we agree that this draft, although more restrictive than you had advocated, was a step in the right direction?

A Yes, I think so.

Q Can we agree that the adoption of a free agent draft by organized baseball in 1965 was a step in the right direction?

A I am not sure that that is necessarily true, but I did propose at one time or another to have a similar type draft with considerably higher prices.

Q Can we agree that the free agent draft that baseball did adopt in 1965 would discourage the reckless distribution of bonuses?

A It did eliminate competition in bonuses, yes.

THE COURT: Mr. Veeck, how about now? What is your testimony on that score as of now, as of the time you are testifying?

THE WITNESS: As of the time I am testifying,

1  
2 it has reduced competition in bonuses and has kept a  
3 considerable number of dollars in baseball.

4 Q And you think that is a good thing or a bad  
5 thing?

6 A I think that it is a good thing to have money in  
7 baseball and I think if the draft is fair and equitable  
8 that it is a good thing from all standpoints.

9 Q Can we agree that with the adoption of the  
10 free agent draft the ability to deal players for your own  
11 good and profit has become increasingly important?

12 A I am sorry. I didn't hear that.

13 Q I don't blame you.

14 MR. KRAMER: Your Honor, if the reporter got  
15 it, could he read it?

16 THE COURT: Certainly. Would you read it,  
17 Mr. Court Reporter?

18 (Question read.)

19 A May I ask for whose own good? You said for  
20 your own good.

t5/1

Q For the baseball club's owner, stock owner, or whatever you wish, management, not players.

A Well, it has -- I can see how it has facilitated trading ballplayers, as has come into practice.

Q I ask you to look at the Hustler's Handbook, page 119. Do not read aloud from that page, but read it.

A All rightee.

Q And then tell me if that refreshes your recollection any with respect to the answer to the question I put to you.

A I would say it has become important, more important.

Q What has become more important?

A The ability to trade players.

Q All right, Mr. Veeck, we will go to another subject now.

Can we agree that baseball is a good career for a young man?

A Yes, a young man of talent.

Q I mean right today with the old fusty, crusty reserve system, is it a good career for a young man?

A Yes, it is one of many good careers for a young man.

THE COURT: If you content yourself, if you can, with "yes" --

1  
2 THE WITNESS: I'm sorry.

3 THE COURT: You see, let me say a word, because  
4 there is going to be quite a bit of testimony yet. Please  
5 understand, and I know you undoubtedly recognize this, that  
6 you have been called as an expert in this forum. Your  
7 recital of your familiarity that was brought out here on the  
8 stand, under oath, with the game, makes you in the eyes of  
9 the law an expert, and therefore, as an expert, your testi-  
10 mony is elicited. If there had been an objection, I  
11 might very well have had to rule as to whether or not you  
12 could go forward with your testimony.

13 Now, just wait a minute. The trier of the facts,  
14 that is the Judge, has had a variety of experts on that stand,  
15 and I have to choose. I have to understand each one, and  
16 it is my function to insist that we try to have a record here  
17 that properly reflects what each witness wants to say, and  
18 I know that you are a colorful witness, and it is good to  
19 have a colorful witness, but would you remember that it is  
20 important to address yourself to the particular question --

21 THE WITNESS: I'm sorry.

22 THE COURT: -- and if you can clinch it with a  
23 "yes," believe me, most of the time that is the equivalent  
24 of an unexpected home run.

25 THE WITNESS: I'm sorry to have spoiled your morning.

1 I shall try to be more brief.

2  
3 THE COURT: You have nothing to apologize for at  
4 all.

5 THE WITNESS: May I have the last question reread,  
6 please?

7 THE COURT: Surely. Mr. Court Reporter, would  
8 you please.

9 MR. KRAMER: So far as I can tell, there is no  
10 pending question, your Honor.

11 THE COURT: All right.

12 Q Can we agree that if you can become a major league  
13 ballplayer it is a very good career for a young man?

14 A Yes.

15 Q Not only because you can make good money playing  
16 big league ball, but because it opens up doors for a busi-  
17 ness career; isn't that right?

18 A Sometimes.

19 Q Can we agree that baseball's pension plan is the  
20 best retirement program in the nation?

21 A Well, I am not familiar within the rest of the  
22 nation, but it is a fine pension plan.

23 Q Can we agree that baseball clubs are at the same  
24 time both -- and I mean major league clubs -- are at the same  
25 time both competitors and partners?

2 A Yes.

3 Q Can we agree that the combination of partnership  
4 and competition is inherent in any team league sport?

5 A Yes.

6 Q Can we agree that baseball is competing for the  
7 entertainment dollar with other businesses?

8 A Yes.

9 Q Can we agree that it competes directly with horse  
10 racing, harness racing, television, pro football, pro basket-  
11 ball?

12 A Well, they all sell tickets and in that respect  
13 they are all competing.

14 Q Now, turn to page 78 of the Hustler's Handbook and  
15 read to yourself this paragraph here, from here to here  
16 (indicating).

17 THE COURT: Will you define it more accurately for  
18 the record? Which is it, the last full paragraph?

19 MR. KRAMER: Yes, the last full paragraph on page 78.

20 THE COURT: All right, just read that to yourself,  
21 Mr. Veeck. Take your time.

22 (Pause.)

23 A Yes, do you want me to --

24 MR. KRAMER: Now, if your Honor please --

25 THE COURT: Wait for the next question.

MR. KRAMER: I am in a quandry.

THE COURT: I have a strong feeling that you will resolve your difficulty. Take your time.

MR. KRAMER: I am perfectly willing to offer the entire chapter, but it has some rather pungent sentences in it concerning the Supreme Court and concerning my beloved partner, Paul Porter. I have no objection to the whole chapter if Mr. Topkis wants it, but all I really want is the paragraph I have shown Mr. Topkis.

MR. GOLDBERG: Your Honor, in this free democracy we are accustomed to pungent comments; no institution or individual is exempt from that. I agree that the whole chapter may go in.

THE COURT: Very well, the whole chapter goes in. Mark it, Mr. Clerk.

MR. KRAMER: Let us identify the chapter by number.

THE COURT: Yes, of course.

MR. KRAMER: I offer from the Hustler's Handbook Chapter 3 entitled Tippecanoe and CBS Too.

THE COURT: How many pages is it?

MR. KRAMER: Well, your Honor, it is pretty long.

THE COURT: How long is long?

MR. KRAMER: 69 to 95, 26 pages, 27 pages.

MR. TOPKIS: 29 pages.

jkbr 6

Veeck-cross

THE COURT: All right, you have read it. You know what you want to put in, what you want to read or what you want to call my attention to, but the whole chapter has just been marked in evidence and is before the Court as an exhibit.

(Defendant Kuhn's Exhibit H-2 received in evidence.)

MR. KRAMER: I wish to read only one paragraph to the witness and then I have to talk to him about it, or I should say ask him questions about it.

Q Would you read the first sentence of that paragraph to me, Mr. Veeck? I don't have that one marked down here.

A You mean, "Now, one of the troubles with discussing a subject like this is that nobody ever says what he means. No one really believes that baseball isn't a business; not you or me or Anna Maria Alberghetti."

Q "What we really believe is that baseball is entitled to its special exemption because of its special character and the special position it holds in the national life. I go along with that. I also believe we could exist very nicely without the reserve clause, but that's another story."

Now, my question to you is, when you wrote that, what did you mean by special exemption? Special exemption from what?

A Well, it seems to me, if my memory or recollection

1 serves me correctly, that the past history up until that time  
2 had illustrated that the reserve clause, which was changed by  
3 football, was still in existence in baseball, and if I re-  
4 call correctly, at that time there was some discussion of  
5 a bill being put before Congress to spread the umbrella of  
6 that exemption. I may be wrong. I can't recall exact  
7 dates.

8  
9 Q My question is, special exemption from what?  
10 Can you be more precise? If you can't, that's all right.  
11 You are not a lawyer, are you, Mr. Veeck?

12 A No.

13 Q Was it special exemption from the United States  
14 antitrust laws?

15 A That is going back a while, and I can't answer  
16 without reading the rest of the chapter and knowing what was  
17 in context.

18 Q Very well.

19 THE COURT: I want to say something. I may make  
20 a contribution. I had a pretty narrow escape the other day  
21 with this chair. I leaned back and I found that it was  
22 broken, so would you please, I am a little nervous, I don't  
23 want any more cases.

24 THE WITNESS: Thank you. All right.

25 Q Have you had experience with the motion picture

1  
2 industry?

3 A Not directly.

4 Q Briefly now, Mr. Veeck, what has been your indirect  
5 experience with the motion picture industry?

6 A A partner of ours in the Cleveland ball club by  
7 the name of Bob Goldstein, was vice-president and at the time  
8 president for a period of time with Universal International.  
9 We made a picture in Cleveland in 1959 -- 1949, called  
10 The Kid from Cleveland, and I have spent a considerable time  
11 with people who are in -- because of Bob Goldstein and his  
12 brother Spud, who was our travelling secretary -- a consider-  
13 able time in Hollywood and with people involved casually in  
14 the motion picture business.

15 Q Did I understand your testimony on direct examination  
16 to be that in the motion picture industry today the employer  
17 can tie up the services of a motion picture actor or  
18 actress for a maximum of seven years? Is that right?

19 A No.

20 Q Where did the seven years get into it?

21 A Well, the seven years was the time that when I was  
22 involved with Bob Goldstein, seven years was the time of  
23 their contracts at that time.

24 Q Of their contracts with motion picture actors and  
25 actresses?

1  
2 A Yes. He was a producer as well as vice-president  
3 and ultimately president -- of certain ones.

4 Q And you mentioned a moment ago, you said at the  
5 time you were connected with Bob somebody or other. What  
6 time was that?

7 A Well, it has been a continuing affair. He was, as  
8 I said, an investor of ours starting in 1946, and he has  
9 been continuously a friend since that time. He is still in  
10 the motion picture business.

11 Q Well, is it your understanding, Mr. Veeck, that  
12 motion picture companies can tie up the services of actors  
13 for seven years?

14 A It is my understanding that at the last time I  
15 discussed it with someone in the business, that they could  
16 tie them up for seven years or a shorter period of time,  
17 and on occasion maybe longer. That I don't know about,  
18 longer.

19 Q And now, did I understand you to say that it was  
20 your understanding that in the motion picture contracts you  
21 were speaking of there was a salary progression provided  
22 for, or did you mean something a little different than that?

23 A What I said is that there were options, and with  
24 the picking up of the option there was a salary agreement  
25 based on that option period.

jkbr 10

Veeck-cross

2 Q Let's take a seven-year motion picture contract.  
3 Are there any circumstances, according to your understand-  
4 ing, under which the actor can get out of that contract and  
5 play for another motion picture company during these seven  
6 years if the motion picture company pays the salary provided  
7 for in the contract?

8 A If it happens to be a seven-year contract.

9 Q Yes.

10 A The motion picture industry has on occasion loaned  
11 the services of one actor to another studio, thereby get-  
12 ting their recompense directly from one studio to the other.  
13 I only believe that in that period of seven years, if that  
14 is what you want, seven, five, whatever it is, that the escape  
15 is only if the company does not pick up the option and the  
16 option period. But if the option is picked up, then the  
17 actor does not have the right to terminate until the end of  
18 the contract.

19 Q Now, one of the proposals, as I understood your  
20 direct testimony, that you made would amount to continuing  
21 the reserve clause, would it not, pretty much as it is for  
22 minor league players, but that once you get to the major  
23 leagues a different set of rules than now exists would take  
24 over? Am I right or wrong?

25 A You are wrong.

jkbr 11

Veeck-cross

2 Q Now, state the respects in which my understanding  
3 was wrong of your testimony.

4 A I suggested that there was, in my opinion, a way  
5 where there could be two contracts, one a contract for develop-  
6 ment, to be superseded by a major league contract. I did not  
7 limit the right of a minor league player to avoid this con-  
8 tract at any date, any more than I did the major league  
9 player. I merely said that in order to establish the time  
10 at which development had become a major league player  
11 rather than a minor league player, there could be a series of  
12 contracts similar to options.

13 Q Right. Now, give us the benefit of your experi-  
14 ence, if you can -- if you can't, say so -- as to how long  
15 you think the contract with a minor league player should  
16 last in the sense that the minor league player could not go  
17 to another minor league team while the contract was in ef-  
18 fect; one year, two years, three years, four years or what?

19 A I couldn't give you a specific answer on it as to  
20 the number of years. I haven't examined that part and I  
21 would be --

22 Q Fine, perfectly reasonable. If you don't have an  
23 opinion, I accept that as an answer.

24 Now, during your direct testimony you stated, if  
25 my notes are correct, that from time to time during your

baseball experience, when you were in baseball, you had misgivings about whether or not all the good players would gravitate to a few of the teams without the reserve system. Did I understand your testimony correctly?

A I possibly used those words. What I was trying to say is -- may I say it?

Q Yes.

A Thank you. Is that I don't think one arrives at a definitive answer without considering both sides and having some thoughts on the contrary sides as well as the positive sides.

Q Now, I want to call your attention to a time when you proposed but could not get a second at an American League meeting. Do you remember that testimony?

A Yes.

Q What year was that?

A 1952, I believe.

Q And what was the proposal that you made that did not get the second?

A I proposed that the television rights on incomes be shared with the visiting club as well as an increase in the gate income to be shared with the visiting club. Wait a minute, I did get a second. Frank Lane seconded it and that was the end of it.

jkbr 13

Veeck-cross

Q You did get a second?

A Yes, Frank Lane seconded it and then voted against it.

Q This sharing of receipts for T.V. you say was in 1951, this proposal?

A I am sorry, I am having trouble with one ear and I don't hear well. I didn't hear what you said.

MR. KRAMER: Your Honor, could we have the Court Reporter read it?

THE COURT: Surely. Would you please read it, Mr. Court Reporter.

(Question read.)

A No, I think I said it was in '52.

Q And where were you in baseball in '52?

A In St. Louis with the Browns.

Q And were you losing money or making money?

A On the first year we broke even.

Q What was the first year?

A Well, my first full year was 1952.

Q And you broke even in that year?

A Yes, in operating income.

Q Your making this proposal, do you want the Court to understand was no way motivated by the fact that you were not making money but only breaking even?

jkbr 14

Veeck-cross

A We had made a similar, had a similar discussion on this when I was with the Cleveland ball club at a prior date when we were not just breaking even or losing money.

Q Is your answer no then?

THE COURT: So your answer is no, isn't it? Would you like to have the question read?

THE WITNESS: No, of course I can't say that there wasn't some self-service, no, your Honor.

Q Thank you, sir. Do you remember if you proposed or made that proposal or brought it up again after 1952 while you were in organized baseball?

A Yes, I brought it up in 1952 also.

Q When you were with the Browns?

A Right.

Q And in 1953 were the Browns making money or losing money?

A They were in a desperate shape in 1953. They were losing money.

Q Did you bring it up again after 1953?

A I can't recall.

Q Now, Mr. Veeck, you said, if I understood you correctly, that another proposal in lieu of the existing reserve system might be the football playoff-your-option rule but with this change, as I understood you, that instead of giving

the Commissioner power to award players to the club who lost the player through the option rule, only money could be awarded. My question is, did I understand your proposal?

A In part.

Q State the rest of the part insofar as it relates to football.

A The point that I was objecting to insofar as football is concerned is that neither the player nor the club from which he is playing out his option has prior knowledge as to what would be just recompense, which makes the club hesitant to accept a new player. If a ball club could know in advance the cost to them of signing a player playing out his option in advance, then I think it would facilitate the flow of ballplayers, if any.

MR. KRAMER: Your Honor, could I have that answer read back? It was long and involved and I am not sure I understand it.

THE COURT: Certainly. Mr. Court Reporter, would you please.

(Answer read.)

Q Now, Mr. Veeck, by cost, did you mean money cost or money cost plus or in lieu of players?

A Well, there are costs. It could be both or either.

Q Have you ever actually read the football rule?

jkbr 16

Veack-cross

2 It is in evidence here as Plaintiff's Exhibit 12.

3 A Yes.

4 Q Well, you will notice that Article XII, .1(H) pro-  
5 vides that the two teams can get together on compensation.

6 A Oh, yes, if they are mutually satisfied, they have  
7 the right, and then the Commissioner does not interject  
8 himself.

9 Q Right. Now, my question to you is, do you know how  
10 many times the Commissioner has injected himself?

11 A No, I don't.

12 Q Now, supposing the two teams cannot get together.  
13 Under your system proposed for baseball who would decide  
14 what the fair thing to do would be?

15 A Well, in my opinion there would be a specific dollar  
16 value. If one wanted to make this dollar value up in players,  
17 that is permissible. But there is a dollar value for the  
18 development of the individual player, and that dollar value  
19 would be, I would presume, registered in each case with either  
20 the league president or the Commissioner's office, but it  
21 would be a specific amount.

22 Q Mr. Veack, all I know about professional sports I  
23 have learned in the trial of this case. I had no interest  
24 in them before, and you must be patient with me because I did  
25 not understand your answer.

Would you say it a different way? Do you understand the question?

A Yes, I think I do. What you are asking, and then I will try to answer, is that who would determine what would be the cost to a club for signing a free agent who has played out his option.

Q Exactly.

A I say to you that there would have been a dollar value of cost to the original club calculated upon his becoming, in quotes, a major league ballplayer. Such sum would be repaid or the sum could be made up in players by mutual agreement, but that there would be a limit, specifically the amount of the cost of the development.

Q Such as up to \$400,000, for example, or is that too high?

A Yes, I think that is considerably too high.

Q All right. Up to 200,000?

A I think that is high.

Q You think that is high. Up to 100,000? All right, let's take 100,000. Now, the team that loses the player says, "This guy is worth more than 100,000. The damn rule won't let me get more than 100,000. I want 100,000."

The other fellow says, "You're crazy. He wasn't worth more than 50,000 to me."

What do you do in such a situation?

A You have established a specific cost, not what somebody thinks he is worth or not something else. There is a specific cost that one is entitled to recover. They are not entitled to get benefits, I don't think, or bonuses in addition to this cost which is being repaid, and whether it is repaid in kind or in cash, I think there is a limit, specifically calculated.

Q My question, Mr. Veeck, is, in the event of a dispute between the two clubs as to what the player was worth, who, under your system, would decide?

A Well, if you have a fixed sum on record as a calculable cost, either as I said in the league office or in the office of the Commissioner, what is there a dispute about?

Q I now begin to get your drift. Now, as you can see, I was handed a note. If you as an owner -- and I ask you to imagine that you are back again in baseball -- if you as an owner had a star shortstop, who at the end of the five, seven or what-not period moved to a rival club, in your opinion would the receipt of money be recompense for that player; do you think it could be measured in money?

A I find that a question impossible to answer because I can't anticipate as an owner, when I was an owner, that I

1  
2 would have a shortstop who would be so unhappy with being  
3 with me.

4 Q So that, assuming you are a good owner, your point  
5 is that you don't anticipate very much playing out your  
6 option and going to other teams, is that it?

7 A Well, I would certainly hope that I would not wait  
8 until the last day of the option period in order to renegotiate  
9 that I would have had a relationship with him that would make  
10 him want to continue in our town.

11 MR. KRAMER: Your Honor, I think I am entitled to  
12 a yes or no on that one. Could we have the question read?

13 THE COURT: Would you listen again to the question,  
14 Mr. Veeck. If you can answer yes --

15 THE WITNESS: Your Honor, he is asking me to imagine  
16 if I were an owner. I don't know how you can imagine if you  
17 were something --

18 MR. HUGHES: Just a moment. I can't hear this  
19 colloquy.

20 THE COURT: Hold it. Go carefully.

21 Would you mind going back, Mr. Court Reporter,  
22 to the question and read everything up to this very instant.

23 (Record read.)

24 THE COURT: Very good. Thank you.

25 Q Under your proposal, Mr. Veeck, do you think there

2 would be much shifting around of players, I mean by your  
3 proposal the modified football system?

4 A There could be some moving around. I can't guess  
5 how much.

6 Q Fair enough. Now, how many years did you attend --

7 MR.KRAMER: Strike that, please. I will start over.

8 Q The question I am about to ask you will require you  
9 to think a little bit and go back and tax your memory, but  
10 it is important, so please try to do so.

11 For how many seasons or parts of seasons were you  
12 either connected with management of a major league baseball  
13 club or yourself the manager or an officer of the corporation  
14 that owned the major league baseball club?

15 A About 19, I would guess, I don't know. I'd hate  
16 to -- without checking dates, but somewhere in that vicin-  
17 ity.

18 THE COURT: Approximately that.

19 THE WITNESS: 1920 an officer or owner.

20 Q It's close enough, Mr. Veeck.

21 A Yes, but I have another ten connected with ball  
22 clubs.

23 Q Another ten, but not with major league clubs?

24 A No. Oh, I -- no, no.

25 Q I am going to ask you --

2 A Oh, yes, I am sorry, another ten when I was work-  
3 ing for the Cubs, at least ten more years I was connected  
4 with a major league team.

5 Q Let's talk about the 19 years first. My question is  
6 for how many of those 19 years did you attend league meetings?

7 A Let's see, about 13, I think.

8 Q At any time during those 13 years of meetings that  
9 you attended did you ever propose salary arbitration between  
10 clubs and players?

11 A I can't recall.

12 Q Now, do you remember that there was an occasion when  
13 you negotiated a contract with a player, I believe, and he  
14 had an agent along with him?

15 A Oh, yes.

16 Q You remember that, don't you?

17 A Yes, Bernardino.

18 Q Just a moment, Mr. Veeck.

19 A Yes.

20 Q You know that baseball this year adopted an agreement  
21 with the players providing for just that practice?

22 A Yes. Well, that was in 1947 that I had dealt with  
23 Bernardino who had an agent.

24 Q Did you know that baseball adopted --

25 A Adopted it.

Q -- this year?

A No, I didn't know it. It's catching up.

Q That is exactly my point. It is catching up.

Now, Mr. Veeck, at any of those 13 years of league meetings -- and by the way, what was the last year you had a league meeting?

A Last year was '61.

Q So, it has been nine years since you have been to a league meeting?

A Yes.

Q Did you propose at any league meeting the adoption of any of the contract arrangement proposals to which you testified today, the modification?

A Did I make a proposal to change them?

Q Yes.

A I can't tell you whether I made an official proposal or not. I know I discussed it with various owners at various times. Not the specific ways I have talked today, but changes.

Q But changes. You have always advocated changes. You certainly have been in the leadership in that respect, isn't that right?

A Well, sometimes you advocate changes, sometimes you don't.

Q And a lot of your changes have been adopted, have

2 they not?

3 A Some of them.

4 Q And they have been good things, haven't they?

5 A Some of them.

6 Q Do you know the average length of life in the major  
7 leagues a ballplayer has, assuming he stayed for 60 days?

8 A I can't give you up-to-date figures. I would  
9 guess, however, that if he stays on a roster -- and you are  
10 now not including option periods, you mean of continuously  
11 being on a major league 25 active player roster?

12 Q Yes.

13 A I should guess about eight years.

14 Q There has been testimony here from the plaintiff --  
15 you know I represent the defendant -- testimony here from  
16 the plaintiff that the average is 4.75 years. Do you think  
17 they are wrong?

18 A It depends entirely on what you take in as a  
19 player, as an active player. I would think that 4.75, in  
20 my opinion, would be for anyone who has been not optioned  
21 and has been continuously for 60 days at least each year  
22 and continued there -- it would be eight years, I would  
23 guess. I think four years is less than the average. That  
24 is my opinion.

25 MR.KRAMER: Your Honor, this is of some importance

and I am not sure I have got it right because I want to ask the witness to make an assumption and I want to make it correct.

Could Mr. Topkis tell me what the 4.75 years is?

MR. TOPKIS: Well, as I understand it, your Honor, as was testified to yesterday by Mr. Miller, it derives from the actuary's figures for the pension plan, and the statement was that once a player has had 60 days of playing time on a major league club's roster, then his average playing life will be 4-3/4 years, but that doesn't take into account whether he is optioned or not optioned or anything like that. This is a very specific, narrowly defined figure, and I just don't know whether anybody but an actuary could have an opinion on that.

Q Did you understand Mr. Topkis' statement all right, Mr. Veeck?

A Yes, I believe I did.

Q All right. Now, I ask you to assume he was right. You don't have to accept that, except as an assumption. What do you suppose is the proportion of players in the major leagues who have had seven years service?

A I can't make that assumption. I don't know.

Q You just don't know?

A No.

2 Q Do you think it would be a third or are you just  
3 unwilling --

4 A I can't.

5 THE COURT: No, he says he doesn't know. That's  
6 it.

7 Next question.

8 Q I am going to another subject now, Mr. Veeck. I am  
9 going to talk about managers with you, a few questions.

10 Can we agree that the manager's real job is to accommo-  
11 date himself to 25 different personalities, to assess the  
12 amount of talent he has within that pool of 25 men, and to  
13 exact the fruits of that talent and maybe just a little ex-  
14 tra for treating them well, personally and professionally?

15 A I think we can agree that that is accurate, in my  
16 opinion.

17 Q Now, when you say that, do you --

18 A You said it.

19 Q Do you speak of the manager in the sense of the  
20 field manager, I think you called them, or do you speak of  
21 the general manager or do you mean both?

22 A The field manager.

23 Q The field manager. Briefly, could you give us as  
24 pithy a description of the job of the general manager?

25 A I have never had a general manager.

Q You were the general manager?

A No, I was the president.

Q And not general manager?

A No, I was not and general manager, but the job of the general manager as it is used today has basically replaced what were the normal duties in most cases of presidents because there is more absentee ownership and more people who own ball clubs who have other occupations.

The general manager has taken over the operation as the chief operating officer except on decisions of policy and meetings and that, if a general manager, some clubs will construe it to be in charge of player personnel; other ones have also included the operation of the plant, and some have even a more restricted idea, so I can't give you a pattern.

Q By the way, is it your testimony that you did or did not act as your own general manager?

A I said I did act as what other people call general managers, but I did not have one, nor was I one.

Q Mr. Buzzy Bavasi, you know him well, don't you?

A Yes.

Q Is he a general manager?

A I believe he is president of the San Diego ball club.

Q Was he a general manager?

2 A Ye, he was.

3 Q Do you agree that he is one of the finest general  
4 managers in baseball?

5 A Well, he is a very able fellow and a very nice sort  
6 of fellow.

7 Q Look at page 371 of Veeck-as in wreck and tell me  
8 whether or not you agree that he is one of the finest general  
9 managers in baseball.

10 A I said he was a very fine man, and this was written  
11 in 1965, and his fortunes have not been quite as good in  
12 San Diego as they were in Los Angeles.

13 Q Look at page 371 of Veeck-as in wreck which was  
14 written or published eight years ago.

15 A All right.

16 Q Tell me whether or not --

17 A 371?

18 Q Yes. Tell me whether or not in 1962 it was your  
19 opinion that Buzzy Bavasi was one of the finest general  
20 managers in baseball?

21 A Yes, I said that.

22 THE COURT: All right, that is his answer. Next  
23 question.

24 Q Now, have you changed your mind?

25 A No.

THE COURT: Next question.

Q Is he still one of the finest general managers in baseball?

A He is not general manager any more.

Q When did he cease being a general manager?

A When he went to San Diego, became an owner.

Q When was that? Pardon?

A When he put his head in the noose.

Q When did he go to San Diego and put his head in the noose?

A Two years ago.

Q How many?

A Two.

Q So that in 1967 was he one of the finest general managers in baseball at the time he was with the Dodgers?

A I would think so, yes.

Q Do you agree with me that Chub Feeney is an excellent baseball man and a really bright young man?

A Yes.

Q Do you agree with me that Bing Devine is both bright and imaginative?

A Yes. Keep going.

Q All right, I will give you another.

A Okay.

2 Q Do you agree that John Mc Hale is a nice enough  
3 guy but dull?

4 A Yes.

5 Q I won't ask you about Mr. Cronin.

6 A I see him sitting over there.

7 Q That is why I won't ask you.

8 A Okay. It's perfectly all right.

9 Q Now, Mr. Veeck, isn't it a fact that you had no  
10 regard for most of the baseball operators in the American  
11 League?

12 A No, that is not a fact. There are some I am very  
13 fond of.

14 Q I said most.

15 A Well, I'd hate to have to go through the box score.

16 Q Well, in 1962, look at page --

17 A I was as fond of them as I have become in retro-  
18 spect.

19 Q Thank you. Could it be that that is because you  
20 don't have to play ball with them now that you are out of  
21 the game and that distance lends enchantment?

22 A I think it is that I don't have to associate with  
23 them as directly.

24 Q All right. I want you to tell us now about the  
25 moveable fences that you used when you ran the Milwaukee

club and when you ran the Cleveland club, and if you need your recollection refreshed, you may turn to pages 60 and 159 of Veeck-as in wreck.

MR. TOPKIS: If your Honor please, I don't see any reason why Mr. Veeck has to be instructed to look at a book. If he needs refreshment, he can, of course, look, but he is asked a question and he should be allowed to answer it.

MR. KRAMER: If your Honor please --

THE COURT: Wait a minute. Are you just making a statement?

MR. TOPKIS: No, your Honor, I am objecting to so much of the question --

MR. KRAMER: I withdraw the question.

THE COURT: It should be withdrawn.

MR. KRAMER: I apologize for the remark. Mr. Topkis is absolutely right.

Q Now, Mr. Veeck, I want you to tell us in your own words about the moveable fences that you used when you ran the Milwaukee club and when you ran the Cleveland club, but before you start, I want to retrieve those two books you have in front of you.

MR. TOPKIS: Well, he won't look at them.

A The ones that are in evidence?

MR. KRAMER: That isn't why. I have to look at

2 them.

3 MR. TOPKIS: Okay.

4 A May I say about the fences, as a prelude, that at  
5 that time there were no rules forbidding the motion of  
6 fences because I have never -- I have tried always not to  
7 break any rules, but to test highly their elasticity, and  
8 I did put into Milwaukee a moveable fence that was on top of  
9 our normal 25-foot right field fence. Since I had more  
10 right-hand hitters, I put them on right field, made out of  
11 chicken wire and connected to a cable that was operated by  
12 a steam winch, and I did pull it out between innings when  
13 the opposition was batting, and on the next day they had  
14 a league meeting and they declared it illegal, immoral, and  
15 I stopped, and I did have a fence.

16  
17  
18  
19  
20  
21  
22  
23  
24  
25

2 Q This is in Milwaukee you are talking about?

3 A Milwaukee. I did have some sleeves in the  
4 ground in Cleveland and until that time you were allowed or  
5 at least you were not prohibited from moving fences, and  
6 we did have a few different sets.

7 Then Mr. Lane came along and kept moving the  
8 fence back and forth a little too short, and the league  
9 passed a rule banning it and we never moved fences  
10 again in Cleveland.

11 Q Thank you.

12 A Does that substantively agree with what I said?

13 MR. KRAMER: If there is no objection, I would  
14 now offer the pages in evidence concerning moving the  
15 fences, but if there is going to be objection or if that is  
16 going to be the basis for offering more of the book in  
17 evidence I will not offer it.

18 MR. TOPKIS: I have no objection to whatever  
19 pages Mr. Kramer wants to offer.

20 THE COURT: Very good.

21 MR. TOPKIS: What pages are they, could we  
22 know that?

23 MR. KRAMER: The pages in question are Pages 60  
24 and 159 of Veeck-As In Wreck.

25 THE COURT: Let the clerk mark them in evidence.

1  
2 please.

xxx 3 (Defendant Kuhn Exhibit G-1 received in  
4 evidence.)

5 MR. KRAMER: Your Honor, might I suggest an  
6 adjournment at this time.

7 THE COURT: Of course.

8 MR. KRAMER: Just one moment, your Honor, please.  
9 Someone is calling me.

10 THE COURT: Certainly.

11 (Pause.)

12 MR. KRAMER: I should say I am through with my  
13 cross-examination, your Honor.

14 MR. HUGHES: No cross-examination.

15 THE COURT: Very well.

16 MR. TOPKIS: Just one question on redirect,  
17 your Honor.

18 THE COURT: Very well.

19 (Pause.)

20 MR. TOPKIS: No, I retract, your Honor. No re-  
21 direct.

22 THE COURT: Then we are all through with the  
23 witness?

24 MR. TOPKIS: That is correct.

25 THE COURT: Mr. Veeck, I don't know whether you

2 are going to take kindly to this, but your testimony is  
3 completed.

4 THE WITNESS: Thank you, your Honor, for being  
5 very patient with me.

6 THE COURT: Very well. We will recess until  
7 2:15, gentlemen.

8 THE CLERK: The Court will recess until 2:15.  
9 All rise.

10 (Luncheon recess.)

11 -----

THE COURT: Gentlemen.

MR. TOPKIS: If your Honor please, we have concluded with our presentation of oral testimony. We have a number of documentary exhibits that I would like to offer at this time.

THE COURT: Very well.

MR. TOPKIS: First, your Honor, there has previously been marked for identification as Exhibit 28, Plaintiff's Exhibit 28, an article by Mr. Buzzy Bavasi, to whom so many encomia were paid this morning. Exhibits 28 and 29, I should say.

MR. KRAMER: Which is which, please?

MR. TOPKIS: 28 is one article by Mr. Bavasi entitled "The Dodger Story, Part 1, The Great Holdout," and 29 is Part 2 of the Dodger Story, entitled "Money Makes the Player Go."

I would now like to have marked for identification Parts 3 and 4.

THE COURT: Mark them as one exhibit, then, Mr. Clerk, for identification.

(Plaintiff's Exhibit 34 marked for identification.)

MR. TOPKIS: Now, your Honor, the articles

1 having been marked, I would offer them in evidence.

2 MR. KRAMER: Objection.

3 MR. HUGHES: Objection, your Honor.

4 THE COURT: Will you state for the record the  
5 grounds for your objection.  
6

7 MR. HUGHES: Yes, your Honor. I understand  
8 that they are being offered on the ground that they con-  
9 stituted admissions of the defendant Dodgers, and I submit  
10 that under the rules of evidence they do not constitute  
11 admissions. The record does show that Mr. Bavasi was the  
12 general manager of the Dodgers at the time these articles  
13 were written, but they are in narrative form. They are  
14 being offered as his observations concerning events that  
15 occurred long prior to the events that are being narrated,  
16 and, as we understand it, the rule is that admissions made  
17 by an agent in a narrative statement of a past transaction  
18 can not be received in evidence against his principal.

19 Your Honor, we have, in anticipation of this  
20 offer, prepared a memorandum of law that is not extensive  
21 but it does deal with the subject and, with your Honor's  
22 permission, I would like to hand it up to your Honor because  
23 I think it says as fully and as effectively and as succinctly  
24 the basis of our objections as I could say in the oral  
25 argument.

gwb-3

1  
2 MR. KRAMER: If your Honor please.

3 THE COURT: Yes, Mr. Kramer.

4 MR. KRAMER: While I agree with everything  
5 that has been said by Mr. Hughes, I have an additional  
6 ground why this document should not be admissible against  
7 my client, Bowie K. Kuhn. He became Commissioner of  
8 Baseball in February, 1969. These articles were written  
9 in 1967, slightly less than two years before he became  
10 Commissioner.

11 THE COURT: Mr. Topkis, do you want to say any-  
12 thing on the record in support of your offer?

13 MR. TOPKIS: I think, your Honor, that it is  
14 clear that the articles in question are an attempt by  
15 Mr. Bavasi to describe his behavior as general manager  
16 of the Los Angeles Club. Since one of the key issues in  
17 this case is the relations between a club and its players and  
18 since we have had testimony by players, I should think that  
19 nothing could conceivably be more pertinent than Mr.  
20 Bavasi's statements on the subject. If there were some  
21 doubt about the reliability of any of the statements, I  
22 should have imagined that my friends would have brought Mr.  
23 Bavasi here to challenge it. But I take it that they  
24 don't suggest that anything there said is untrue, and  
25 since the statements do bear so directly on the heart of

gwb -4

what we are concerned with here, I think that they are competent and relevant and should be admitted.

MR. HUGHES: I don't think, your Honor, if these are plainly inadmissible on their face, there was any necessity for us bringing Mr. Bavasi from San Francisco or wherever he is to testify with respect to the issue as to whether they are admissible or inadmissible.

THE COURT: My inclination is to support the objection, but I always like to honor the effort of counsel and here is a memorandum that they have just submitted and I am going to read it and therefore reserve decision on the admissibility into evidence of Plaintiff's Exhibits 28, 29 and 34.

MR. HUGHES: Would your Honor like another copy?

THE COURT: They will get mine. Thank you.

MR. TOPKIS: May we have an opportunity, your Honor, to respond to this memo, which of course we have just seen?

THE COURT: Of course. That goes without saying.

MR. TOPKIS: Thank you.

MR. HUGHES: Contrary to the position Mr. Topkis took, we don't take the position that your Honor should not look at the documents for the purpose of determining whether they are admissible or not. I don't

gwb-5

see how you can deal with the subject without looking at them.

THE COURT: I don't either, but I shall have to go about it in the way that I understand my obligation requires me to approach the challenge.

All right.

(Plaintiff's Exhibit 35 marked for identification.)

MR. TOPKIS: Your Honor, we have just had marked for identification as Plaintiff's Exhibit 35 a document in two sheets, the first of which is entitled "Table 1 - Average Annual Earnings Per Full Time Employee, Major League Baseball and Selected Industries, 1929-1968," and we have tabulated the average annual earnings for six selected years, 1929, '39, '50, '65 and '68, and I should perhaps tell your Honor the reason for selecting those years.

THE COURT: Let's first find out whether there is any objection.

MR. HUGHES: There is no objection, your Honor. I think Mr. Hoynes might like to make a comment, specific comment, on this.

MR. HOYNES: I have had prior discussions with Mr. Topkis about this exhibit. We have no objection to its being received in evidence. However, since it was not

1  
2 offered through a witness and since it does depend upon  
3 certain underlying data -- it is a tabulation taken from  
4 underlying data -- about which we may care to comment in our  
5 briefs, I would like to have an understanding that we are  
6 entitled to comment upon the underlying data which is referred  
7 to in these two pages of the exhibit and to comment upon  
8 the way in which that underlying data is translated into  
9 the table.

10 Ordinarily we wouldn't be entitled to go behind  
11 the document that way, but since there is no witness for  
12 us to interrogate about the method of its compilation, I  
13 would like the privilege of going behind the document to  
14 its sources in our brief.

15 THE COURT: I am sure Mr. Topkis will find that  
16 fair.

17 MR. TOPKIS: You are quite right, your Honor.

18 THE COURT: Received in evidence. Mark it.

19 (Plaintiff's Exhibit 35 received in evidence.)

20 MR. TOPKIS: If I may, your Honor, let me put  
21 on the record the fact there was an inadvertent omission  
22 on the first page of a page citation. Perhaps I might  
23 call it to my friend's attention. On the third line of  
24 the first page there is a reference to Page 1611. I am  
25

gwb-7

advised that the correct reference should be Pages 1610 and 11.

THE COURT: You know, you always have to remember that the court reporter is the Judge's only safeguard. It was concerning the court reporter that that song was written, Mr. Topkis, To Whom Can I Turn If You Turn Away.

When the Judge is in a jam you fellows are not going to support me. I have to look to this man here.

All right, let's go on.

MR. TOPKIS: Mark this, please.

(Plaintiff's Exhibit 36 marked for identification.)

MR. TOPKIS: Your Honor, I have just had marked as Plaintiff's Exhibit 36 for identification a tabulation of pennant winners from the 1970 World Almanac, Page 870, covering the period 1920 through 1969. I had it prepared in this form really just for useful handling.

THE COURT: The Court's convenience?

MR. TOPKIS: Exactly, your Honor.

MR. HUGHES: You represent this is an accurate compilation?

MR. TOPKIS: Yes.

MR. HUGHES: No objection.

THE COURT: No objection. Received.

(Plaintiff's Exhibit 36 received in evidence.)

MR. TOPKIS: Now, your Honor, we were supplied yesterday with Defendant Feeney Exhibit V for identification, a volume authored by Arthur D. Little, Inc., and entitled "Opportunities for Promoting Major League Baseball." They report to the Major League Promotion Corporation, and it is stated in there that the Major League Corporation was established by Major League Baseball, and I would offer this in evidence.

MR. KRAMER: Objection.

MR. HUGHES: Objection.

THE COURT: What is the basis of it? I don't know exactly --

MR. HUGHES: I don't know what the possible relevance of it is, your Honor. It is a lengthy document. Perhaps Mr. Topkis could indicate to us the respects in which he thinks either the entire document or parts of it are relevant. If he would do that we might be willing to consider it. But as of now, I can't see any relevance.

THE COURT: Why not leave it this way? You have gotten along so handsomely for three weeks and one day on trial, I am going to let you consider your offer and, having been made on the record with respect to that last

gwb-9

exhibit for identification, and then you will please get together and decide whether or not you wish to have the record reflect what you have agreed upon and I will dispose of it accordingly.

MR. TOPKIS: Very well.

THE COURT: Is that all right?

MR. TOPKIS: Certainly.

Your Honor, there has been furnished to us and marked for identification as Plaintiff's Exhibit 30, a document -- the first page of which appears to be upside down. Forgive me if I turn it around the right way -- a document entitled Major League Rosters 1960-'69.

I would offer that in evidence.

MR. KRAMER: Just one moment.

THE COURT: Yes, Mr. Kramer.

MR. KRAMER: Could we have just a minute, your Honor?

THE COURT: Why, certainly.

(Pause.)

MR. KRAMER: No objection by Commissioner Kuhn.

MR. HUGHES: No objection.

THE COURT: Received.

Mark it, Mr. Clerk, please.

(Plaintiff's Exhibit 30 received in evidence.)

2 MR. TOPKIS: Your Honor, perhaps I should here  
3 place upon the record or did we yesterday, the agreement --  
4 no. Your Honor will perhaps recall -- my memory tricked  
5 me -- that I yesterday advised your Honor that we had had  
6 some preliminary discussions with Mr. Hoynes relating to  
7 these baseball encyclopedia which have been marked for  
8 identification.

9 THE COURT: Indeed we did.

10 MR. TOPKIS: What we would propose is that rather  
11 than try and winnow them out at the present time and make  
12 Xeroxes and so forth, we would propose that each side be  
13 free to treat these as the standard reference works, which  
14 they are, and to refer to them in our briefs with the under-  
15 standing your Honor would not be obligated to consult them  
16 except to the degree we cite them in our briefs.

17 MR. HUGHES: Your Honor, we have considered  
18 that overnight. These are enormous compilations. They  
19 have player records for literally thousands and thousands  
20 of people. Our proposal is that -- and I think you are  
21 interested in it primarily for the player records, at  
22 least that is our assumption, and we would suggest that the  
23 player records of all players whose names have been  
24 referred to during the course of the trial as they are  
25 recorded in that book be deemed in evidence rather than

have many thousands of players' records be in some vague generalized way somehow or other before the Court.

We would suggest that in those instances where the names first arose during the course during the testimony of the plaintiff's witnesses, that they be deemed to be a plaintiff's exhibit and in instances where they arose during the course of the testimony of the defendants' witnesses that they be deemed defendants' exhibits.

t2/1

THE COURT: Would that suit you?

MR. TOPKIS: Not quite, your Honor, because it is not only for player records that we are interested in these; as I suggested to your Honor informally yesterday, we are interested also in such matters as league standings, attendance and the like, really at the present time I cannot represent to your Honor precisely what use I would propose to make of these, but I would like to have available to me, to call to your attention for such significance as it may have, these standard reference works which the Commissioner of Baseball testified he consults.

MR. HUGHES: There is a lot of narrative material in there, your Honor.

MR. TOPKIS: I don't want the narrative material. I will make it that easy.

MR. HUGHES: You do or do not?

MR. TOPKIS: I do not.

MR. HUGHES: All right. Are we in agreement as far as the player records are concerned? Is that a satisfactory disposition of the player records?

MR. TOPKIS: As far as it goes, yes.

MR. HUGHES: Well, I mean, is it or isn't it?

MR. TOPKIS: I am saying to you that I will accept that as the players but for all I know I may want other

material.

THE COURT: He may want other material. Is that all right?

MR. HUGHES: Yes.

THE COURT: Very well.

MR. TOPKIS: Very well.

THE COURT: So ordered. That is with regard to which particular exhibit, for the sake of the record?

MR. HUGHES: It is bigger than the phonebook, your Honor.

THE COURT: That is impossible.

MR. TOPKIS: The marking seems to have come off, your Honor.

THE COURT: All right, Mr. Clerk.

THE CLERK: There were two, your Honor, 23 and 24.

MR. HUGHES: It is Exhibit 24.

MR. TOPKIS: 24.

THE COURT: The clerk tells us 24.

MR. TOPKIS: And 23.

THE COURT: Now, wait a minute. Your stipulation just now relates only, does it not, to 24 for identification?

MR. HUGHES: Yes. That is what I was asked to consider overnight, your Honor.

THE COURT: And that shall be considered, gentlemen,

as 24 in evidence to the extent that your references to it make clear that that is all you want from 24.

MR. TOPKIS: Fine, your Honor.

THE COURT: So whatever you use will become 24 in evidence.

MR. TOPKIS: Very well, your Honor.

(Portion of Plaintiff's Exhibit 24 received in evidence.)

THE COURT: I know I can count on you not to burden the record with tertiary material.

MR. TOPKIS: The only other thing I want, your Honor, is the attendance in professional basketball and football which I believe appears in the World Almanac somewhere.

MR. HUGHES: Mr. Topkis, I am sorry I missed what you said.

MR. TOPKIS: Your Honor, could the Court Reporter read it back?

THE COURT: Yes, Mr. Court Reporter, please.

(Record read.)

MR. TOPKIS: Page 851.

MR. HUGHES: Your Honor, I will not dispute the accuracy of whatever figures are shown in the World Almanac. I do object to its relevance.

THE COURT: Can we treat -- what number is that?

1  
2 MR. TOPKIS: Page 851.

3 THE COURT: No, what number?

4 MR. TOPKIS: Oh, it hasn't been marked yet, your  
5 Honor.

6 THE COURT: Can we treat it the way we have 24 for  
7 identification, that whatever is mentioned in the memoranda  
8 shall be considered as admissible?

9 MR. HUGHES: Well, no, but, your Honor, I raise the  
10 question of relevance of attendance figures of basketball  
11 and football or whatever. I am not disputing what-  
12 ever the World Almanac shows, but I am objecting to its  
13 relevance.

14 THE COURT: Well, how is it relevant, Mr. Topkis,  
15 since that has been raised?

16 MR. TOPKIS: Your Honor, there has been testimony  
17 that both professional football and basketball, and for that  
18 matter I inadvertently omitted hockey, have different and  
19 less restrictive reserve systems than does baseball, and I  
20 want to show that these sports have nonetheless had ever-  
21 rising attendances.

22 THE COURT: What do you say to that?

23 MR. HUGHES: Well, your Honor, this goes into the  
24 whole issue of the nature and extent of restrictions, a  
25 question which your Honor raised very, very early in the

trial, and I fail to see how rising attendance, be it the fact, in one sport or another has any relevance to any issue that is really pending before your Honor.

THE COURT: Mark it for identification and let me reflect on it.

MR. KRAMER: If your Honor please, to narrow the issue for your Honor, I think Mr. Topkis is willing to specify the pages so you would only have to look at certain pages.

MR. HUGHES: Yes.

THE COURT: Would you do that?

MR. TOPKIS: Surely, your Honor, if I may consult for a moment. I said 851, didn't I, for football? Yes, professional football attendance at 851.

Well, as luck would have it, they don't seem to appear to have attendance figures for basketball. Let me try hockey.

The same seems to be true for hockey, your Honor, so I will abide by football.

THE COURT: All right.

MR. HUGHES: Is that the 1970 edition?

MR. TOPKIS: It is indeed.

THE COURT: Do you still object to it?

MR. HUGHES: Yes, sir.

THE COURT: Very well, decision reserved on that

particular part. Have you got it marked, the particular page, Mr. Clerk?

THE CLERK: Yes, your Honor. It is Plaintiff's Exhibit 37 marked for identification.

MR. TOPKIS: Page 851.

THE COURT: Page 851 is all that I have before me.

(Page 851 of the 1970 World Almanac marked Plaintiff's Exhibit 37 for identification.)

THE COURT: All right. Is there anything else, Mr. Topkis?

MR. TOPKIS: Nothing else, your Honor. The plaintiff at this point rests.

THE COURT: That is the total of plaintiff's proof.

MR. TOPKIS: That is right.

MR. HUGHES: Your Honor, we have one witness in surrebuttal, Mr. Gaherin, and he will now take the stand.

THE COURT: Very well.

MR. HUGHES: Mr. Madden will conduct the direct examination.

THE COURT: Yes, sir.

JOHN J. GAHERIN, called as a witness by the defendant in surrebuttal, having been first duly sworn, testified as follows:

THE COURT: Mr. Gaherin, we know you have been here before, but whenever a witness has completed his testimony and is called back, we reswear the witness.

DIRECT EXAMINATION BY MR. HADDEN:

Q Mr. Gaherin, were you present in court yesterday?

A Yes.

Q Were you present and did you hear the testimony given by Mr. Miller on rebuttal?

A I did.

Q Mr. Gaherin, let me read a question and answer or perhaps a series of questions and answers which appear in the record at 1883, being Mr. Miller's direct examination by Mr. Topkis.

"Q (Line 23) Would you tell us, please, whether in signing that agreement" -- and if I may interrupt myself, that is the first basic agreement which was under discussion -- "Would you tell us, please, whether in signing that agreement you accepted the reserve system as it then stood?"

"A No, your Honor, we did not."

Skipping to a further question in the same line of testimony on page 1884, line 14:

"Q Did you make any statements to the representatives of baseball management to that effect, and if so, please tell the Court when and to whom you made such statements?"

And a portion of the answer which followed that question appearing on page 1885, line 2:

"The oral statement was made at either the final or next to the final negotiating session in trying to wrap up the agreement as a whole, and it was to the effect that we did not accept the reserve system as legal and that therefore we wanted the Player Relations Committee to know that when we agreed on a clause, for example, which is a normal clause, that we will do our best efforts to carry out the provisions of the agreement, that they should know that the reserve clause we considered illegal and therefore we could, of course, not agree to use our best efforts to carry that out."

Do you recall that testimony, Mr. Gaherin?

A I do.

Q Is it correct?

A No.

Q Would you state what your recollection is as to that subject matter?

A My recollection is that at the meeting which prob-

ably occurred in January of 1968, toward the end of the negotiations which culminated in the first basic agreement, there was discussion about the reserve clause and it was understood, the statement of the Association representatives was to the effect they expressed no view with respect to the legality of it; they did not agree, however, with our position that it was a legal document.

Q And in the course of those discussions was there a reference by any representative of the Association to the statement of policy dated July 28, 1967, which is in evidence as Defendant Feeney's Exhibit O?

A Yes.

Q What was that reference?

A The reference to the statement of policy was to the effect, again, that the Association's position, they did not state whether it was legal or was not legal; they simply had doubts as to its legality.

Q Now, showing you, Mr. Gaherin, Exhibit O, let me refer you to the first paragraph at the top of Page 6, and I will ask you if you see the reference there to the question of legality of the reserve system?

A Yes.

Q And what does the document say, sir?

A "In addition to placing the player in the untenable

position of being required to accept the club's proposed salary or leaving organized baseball, the reserve clause is of doubtful legality."

Q And is it your testimony that in the discussions or negotiations which were taking place in January 1968, that reference was made back to that statement?

A Yes.

Q Was there anything else said in the January 1968 discussions or negotiations concerning the legality of the reserve system?

A Yes. My best recollection is that Mr. Moss, in commenting with respect to the status of the reserve clause, said that part or considerable of their doubt concerning its legality was to be found in an increasing body of law concerning these matters which cast a doubt upon the legality of it, and I believe he referred to one of the cases that was in that category; it was the Rick Barry case.

Q Which was then in litigation?

A Which was then in litigation, and I think there was also reference to, as I recall it, another case which was in Pennsylvania.

Q And did the representatives of the clubs, yourself included, press the Association for a statement of their position on the legality of the reserve system at that time?

1  
2 A Yes, we did.

3 Q And what response was received?

4 A They expressed no position with respect to the  
5 legality of the reserve clause except --

6 Q That is, they refused to do so?

7 A They refused to do so.

8 Q Does that complete any discussion which you recall  
9 concerning the legality of the reserve system as it took  
10 place during the negotiations on the first basic agreement?

11 A Yes, sir.

12 Q And I think your direct testimony is to the effect  
13 that the next consideration of the reserve system between the  
14 parties was during the joint study of the reserve system  
15 which took place in the spring and summer of 1969, is that  
16 correct?

17 A Yes, sir.

18 Q Was there any discussion during the course of that  
19 study as to the legality of the reserve system?

20 A Yes, sir.

21 Q Would you tell the Court what was said, in substance?

22 A Yes. The representatives of the Association urged  
23 upon us as one of the motivations for amending the reserve  
24 structure the possibility that some person other than the  
25 Association might mount an attack upon the legality of the

reserve system and if he were successful in that attack, cast the whole matter into chaos.

Q And did the Association's representatives voice concern with respect to that possibility?

A Yes. They said that they were as concerned as we should be for the result of such a situation.

Q And did they state that the players were concerned about that also?

A Yes, they did say that the players were concerned.

Q In the course of the joint study -- and if you would refer in your answer, please, to any writings that changed hands during the study, as well as oral statements -- were there any other statements made by the Association which expressly or by implication cast doubt upon the reserve system?

A No, neither orally nor in the -- I guess you would call it a position paper that was given to us during the course of the study, probably some time in June of that year.

Q And handing you what is in evidence as Defendant Feeney Exhibit Q, is that the position paper to which you refer?

A Yes.

Q Referring again to Mr. Miller's testimony of yesterday, Mr. Gaherin, let me read some of his testimony. Page 1889, Line 12, Mr. Topkis examining Mr. Miller.

"Q When the news of Mr. Flood's impending suit became available, did that news have any impact upon the discussions which you were having?

"A No."

Going over to a continuation of that subject matter, Mr. Miller answering on Line 6, Page 1890.

"There was no difference whatsoever in the nature of the discussions before it was known that Curt Flood intended to file suit and after it was made known that Curt Flood intended to file a suit. As a matter of fact, there was not even any conversation between the parties concerning the news about the suit.

"Q Did discussion about the reserve clause --

"Mr. Hughes: Excuse me just a moment. For my benefit, are you now talking about conversations prior to the actual commencement of the action? Is that where we are?

"The Witness: Yes."

You heard that testimony, Mr. Gaherin?

A Yes.

Q Is that true and correct?

A No.

Q Will you tell us the respects in which it is inaccurate?

A Before the actual suit was filed, when we were aware of the possibility of the suit we had a discussion across the bargaining table one day, the two negotiating committees, that of the Association and that of the Player Relations Committee, to the effect that we said that if Flood -- we were told that -- we told them that we considered any action by Flood or by them helping Flood in this action as violative of the commitment that was made in the basic agreement for the parties to do their best -- make their best effort to see that all provisions of the Uniform Player's Contract were carried out and we did not consider the Association's assistance of Flood in this act as a fulfillment of that commitment.

Q What response was made by the Association's representatives?

A The Association's representatives said that they had talked to Mr. Flood and had endeavored to dissuade

him from the course which he had elected and that, in any event, no suit was then pending. And there was some discussion as to whether or not an anticipatory breach, I think was the term used, was also violative of this commitment.

And the reply was that we were not -- did not know whether they had used their best efforts and in their belief and judgment they had used their best efforts to prevent Mr. Flood from pursuing this action.

Q Now, Mr. Gaherin, subsequent to the filing of the Flood complaint, what discussions took place with reference to the Flood lawsuit in the course of the further negotiations?

A Well, after the lawsuit was filed?

Q Yes, after it was filed.

A We continued to discuss the matters that were proposed by the Association and some time in early February, as I recall it, February 5 or 6, if my recollection is correct, a proposal that was on the table since the preceding year was withdrawn from the table by the Association and a group of proposed amendments to the reserve clause was proposed, including the football clause, and we continued to talk about these things in the context of the total negotiation that was going on.

Q And when, if at all, did the subject of the Flood

1  
2 suit again intervene in the discussions, in the negotiations?

3 A Well, really the next time the Flood suit  
4 became involved in the negotiations was at that point toward  
5 the end of February or middle of February when the Associa-  
6 tion representatives were preparing to have their meeting  
7 of their executive board and their subsequent meetings with  
8 the player personnel, and the proposal that we were urging  
9 upon them so far as reserve clause was the maintenance of  
10 the status quo, the continuance of the present system in  
11 the successor agreement, a proposal which they would not  
12 agree to.

13 And incidentally, your Honor, I see in reading  
14 my testimony of the other day I misspoke. I said that the  
15 Association was not willing to talk about amendments to the  
16 clause following the filing of the suit. They were willing  
17 to talk about amendments. It was a continuation of the  
18 clause in its present form as part of the agreement which  
19 they objected to.

20 Since they were no longer willing to talk  
21 about a basic agreement which included the reserve clause  
22 in the form that we had proposed it and since both sides  
23 were desirous of reaching an overall settlement of the  
24 dispute, a way had to be found to proceed, and the Associa-  
25

tion made it very clear that they could not agree to a basic agreement which contained the reserve clause on the basis that if they did so it would be damaging to this action, that if in fact it was part of the existing basic agreement at that time, the one which expired on April 5, under no circumstances would they agree to its continuation in another successor agreement, and that was the next time that the reserve clause became a part of the conversation.

Q And was it at that time, Mr. Gaherin, that you expressed or the clubs' representatives expressed to the Association their agreement with that general concept and was it at that time that you expressed the statement as you said it in your direct testimony, that it was difficult to ride two horses galloping in opposite directions?

A Yes. We said we could not undertake to continue negotiations which appeared on the bargaining table to have for their purpose amending the clause while at the same time involved in a legal action which had for its purpose its total destruction.

Q At any time during the period of your association with major league baseball until the testimony given by Mr. Miller yesterday, did any representative of the Association ever state to you or, to your knowledge, to any other representative of major league baseball the flat

assertion that the reserve clause was illegal?

A No, sir.

MR. HADDEN: No further questions, your Honor.

THE COURT: Mr. Kramer?

MR. KRAMER: No questions, your Honor.

MR. TOPKIS: May I confer for a moment, your Honor?

THE COURT: Surely, Mr. Topkis.

(Pause.)

CROSS-EXAMINATION BY MR. TOPKIS:

Q Mr. Gaherin, just a couple of questions, if I may.

When the news became known that Mr. Flood's lawsuit was impending, did Mr. Miller or Mr. Moss say to you in substance that they had heard assurances from Mr. Flood that if appropriate modifications were made in the reserve system the lawsuit would not be filed?

A Yes.

Q Mr. Gaherin, you are aware that on some particulars your testimony this afternoon is different from Mr. Miller's testimony of yesterday, aren't you?

A Yes.

Q Do you believe that Mr. Miller was deliberately telling untruths or that your memory is somewhat better

than his?

A Well, I guess my memory is better than his.

Q You don't represent, on the other hand, that you have a flawless memory, do you?

A No.

Q It is possible that his memory as to some matters might be more accurate than yours?

A Conceivably.

MR. TOPKIS: No further questions. Thank you, Mr. Gaherin.

THE COURT: Is there anything else of the witness?

MR. HUGHES: No.

THE COURT: Step down, sir.

(Witness excused.)

MR. KRAMER: I would at this time like to make a correction in the transcript of yesterday. It is on Page 1932 at Line 19. I am reported as having said, "We are dealing here with items and conditions of the players' employment."

I either said or intended to say, "We are dealing here with terms and conditions of the players' employment."

Do you agree, Mr. Topkis?

MR. TOPKIS: Whatever you say, Mr. Kramer, on

1  
2 this or anything else.

3 THE COURT: The record will be corrected accord-  
4 ingly.

5 MR. HUGHES: Your Honor, the defendant clubs  
6 and leagues rest.

7 MR. KRAMER: Bowie K. Kuhn rests, your Honor.

8 MR. HUGHES: Your Honor, I am frankly not  
9 sure whether the motion I am about to make is necessary,  
10 but for the sake of completeness, your Honor, I now move  
11 for an order and judgment of dismissal of each of the four  
12 causes of action remaining in the complaint upon each and  
13 all of the grounds I urged at the close of the plaintiff's  
14 case, except that I base it now on all of the evidence in  
15 the entire case.

16 THE COURT: Decision reserved.

17 Mr. Kramer, any motions on behalf of the  
18 Commissioner?

19 MR. KRAMER: I make the same motion except  
20 it is limited to Count 1, since that is the only count  
21 in which my client is named, and I of course assume your  
22 Honor will take the same action.

23 THE COURT: Decision reserved.

24 MR. TOPKIS: If it be necessary, your Honor,  
25 I move for judgment on behalf of the plaintiff.

THE COURT: Decision reserved.

Gentlemen, before we close this trial record, and it is obvious, by the way, that what this Judge does in weighing it and disposing of it, what other Judges may do in their estimate of its value doesn't alter the fact that we are now about to close the one and only trial record in this case.

It has been our purpose all along to let you have your full say, and I tell you again and for the last time, as I must, that if there is anything that you wish to put in so as to complete the record, you are to do so now. We will even open up the proceedings and allow you to put it in.

I remind you of what I have said time and time again: That any ruling that the Court has made throughout the course of this trial, whether it relates to the reception or rejection of evidence, oral or written, is not to be considered by you as final, that you still have the right to argue your respective contentions with respect to such material.

Are we all through?

MR. HUGHES: I believe so, your Honor, except there may be some housekeeping matters we might like to take up with your Honor in chambers.

THE COURT: Very well. I mean so far as the

trial record is concerned it is closed?

MR. HUGHES: Yes, I believe so, your Honor.

THE COURT: Gentlemen, we spoke the other day about the filing of post-trial memoranda. I hope upon further reflection you have seen the advisability of setting two weeks from today as the date for the submission of trial memoranda.

Is that pressing you?

MR. HUGHES: Your Honor, that was one of the subjects we felt we wanted to discuss. We are quite prepared to discuss it here. It seemed to us it might be more appropriate to discuss it in chambers.

THE COURT: I will adopt your suggestion.

Is there anything else that we are to take up?

MR. HUGHES: I think one other item in chambers, your Honor.

THE COURT: Very well. But right out here in the open courtroom, and I ask you to bear with me, and won't you please sit down, I would like to close the case with just a few more words.

As you know, this is school commencement time and presumably some kind words are being spoken. How effectively or with what reception is another matter. That is not what prompts these remarks.

1  
2 It is your individual efforts, your individual  
3 and collective efforts before this Court. We say in utter  
4 sincerity that before this trial record is closed it is  
5 only fitting and proper that it include the Court's sense  
6 of appreciation to all counsel for their unflagging industry,  
7 unflinching discharge of duty and high order of professional  
8 deportment.

9 In short, a brilliant display of advocacy at its  
10 best, and to employ an effective, old-fashioned high  
11 compliment, you were fair and square.

12 Mr. Hughes, distinguished past president of the  
13 New York County Lawyers Association, effectively quiet,  
14 particularly meticulous and ever watchful, once again you  
15 gave clear evidence of what it takes to earn  
16 the constant respect of Bench and Bar. Compliments go  
17 to each of his keen associates and aides.

18 We must mention at least Mr. Carroll, Mr.  
19 Hadden and Mr. Hoynes.

20 As for Mr. Kramer, every time he got to his feet  
21 we all benefited. We regret his office address is Washington  
22 D.C., for that reduces the possibility of having him with  
23 us often.

24 And now on the other side of counsel table, Mr.  
25 Justice Goldberg, his leadership, and we use that word

1  
2 advisedly and in its finest sense, was exemplary. He dem-  
3 strated it here and it has enthused his aides to strain  
4 with all their might and main.

5 And now we come to Mr. Topkis. Your hair-  
6 trigger alertness was remarkable and at times truly fascinat-  
7 ing. In all sincerity, it is to be hoped you will be  
8 able somehow to concentrate your efforts exclusively in the  
9 arena where your talents belong and are needed. What greater  
10 achievement is there for a lawyer than to be recognized  
11 on the merits as an outstanding trial advocate?

12 Due also are the compliments of this Court to  
13 your silent assistants, always on the alert and seemingly  
14 convinced, as all of you are, of the merit of thorough  
15 preparation.

16 As to the case itself, it really is a cause  
17 in the truest classical sense. Interwoven with the rights  
18 of the litigants named in the caption of this matter is  
19 baseball itself. That is enough to compel us to proceed  
20 with utmost care. It is saying a great deal that we  
21 match your genuine concern, and it goes without saying that  
22 we are resolved to call them as we see them as they come  
23 across the plate.

24 One last word, gentlemen Such is the  
25 nature of this cause and the challenge involved that it

evokes not just an appeal to reason but takes in total judicial reaction, and calls to mind and makes especially meaningful the words of Judge Frank of our own Circuit Court in a case entitled "In re Linehan," and I quote it:

"The law does not require a Judge to anesthetize his emotional reflexes. Only death yields such complete dispassionateness, for dispassion signifies indifference. Much harm is done by the myth that, merely by putting on a black robe and taking the oath of office as a judge, a man ceases to be human and strips himself of all predilections, becomes a passionateless thinking machine."

That is the effect that this case has had on this Judge. I thank you once again for your courtesy to one another and to me. I will see you in chambers, but for the sake of the record and the announcements in open court, the clerk will be good enough to announce an adjournment of this court until tomorrow morning at ten o'clock.

THE CLERK: Court is adjourned until tomorrow morning at ten o'clock.

Time noted 3:10 P.M.

(In the robing room.)

THE COURT: Mr. Court Reporter, all of us want to thank you and your colleagues for the meticulous

attention you gave to reporting this case.

In a conference in the robing room it has been agreed that the post-trial memoranda are to be exchanged and filed on July 7, and replying memoranda on July 13.

Now, Mr. Hoynes has something to say with regard to Exhibit S in evidence.

MR. HOYNES: Thank you, your Honor. Pages 18 through 25, inclusive, of Defendant Feeney Exhibit S pertain to the material which is to be kept confidential pursuant to the Court's direction, which direction was included in the record earlier in these trial proceedings.

I now suggest to the Court that those pages 18 through 25 be physically removed from Defendant Feeney Exhibit S and separately marked Defendant Feeney Exhibit S-1 received in evidence, so that there will be a physical separation of the confidential material in the remainder of the Arthur D. Little report.

THE COURT: All right with you, Mr. Kramer?

MR. KRAMER: Yes, sir.

THE COURT: Agreeable, Mr. Topkis?

MR. TOPKIS: Yes, indeed.

THE COURT: Do it now, Mr. Clerk, in my presence and hand me the material that is removed.

(Defendant Feeney Exhibit S-1 received in evidence.)

MR. FRASER: Your Honor, out of an abundance of caution I suppose we should put on the record, as I understand, I have permission to substitute for the portions of the two Veeck books that I offered in evidence Xerox copies of those pages rather than lodging both of the two books with the clerk.

Frankly, your Honor, my reason for that is I got them out of a public library and I have to return them.

THE COURT: And the overdue charges may amount to quite a bit. Well, of course you may do that.

Is there anything else?

MR. HUGHES: No, your Honor.

THE COURT: Thank you gentlemen. Come again and often, will you?

(Time noted 3:37 P.M.)

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NAME DIRECT CROSS REDIRECT RECROSS

Bill Veeck 1947 1987

John J. Gaherin 2058 2060

EXHIBIT INDEX

Defendant Kuhn Identification Evidence

G 1990

H-1 2001

G-1 2039

Defendant Feeney Identification Evidence

S-1 2077

Plaintiff Identification Evidence

34 2041

35 2045 2046

36 2047 2048

30 2049

24 2054

37 2057

Case No. 202 '70

Date: 5/24/73

Description of papers:

Requisitioned by:

Name of firm: Stuart NEMKOWITZ

By: ERASMUS Hall H.S.

Address:

Papers must not be removed from this room