Chapter 7 – Labor Relations in Hockey

1970’s – victim to overexpansion and violence

-labor relations (peaceful tactics and willingness to compromise)

NHLPA

-most docile in fighting with owners (great love for the game)

-Norris family (owned 2 teams and owned Madison Square Garden) opportunity for self dealing and keeping salaries low

-dual salary arrangement (minor league and NHL contract)

-sparking incident for organizing (television contract) – players received nothing

-players wanted tv revenue to be distributed to pension

-union filed antitrust suit, union won $3 million to pension

-difficult to continue this union momentum

-Eagleson – increased player power, league expansion also helped

 -chief negotiator and also handles contract negotiations on salaries (advisor to 1/3 of league players)

Continuous Bargaining System

 -bargaining by Owner-Player Council

 -more frequent negotiation, provisions changed frequently, built in system for revising contract

 -able to adapt to changing economic or legal conditions

 -this way avoided dealing with multiple complex issues at once

1975 – Revised Bargaining Structure

 -first CBA (five year term)

1979 – merged with WHA

Arbitration

 -reserve clause (paragraph 17) salaries determined by mutual agreement and disputes submitted to the president of NHL for final decision

 -arbitration granted in 1969 (not as heavily used as in MLB)

Free Agency

 -challenged contracts by jumping to WHA (challenged Reserve System)

 -change to a one year option clause (allowed for free agency in 1975 CBA)

 -Paragraph 17 and termination contract options

 -during last year of contract, club request signing of termination contract (signed – contract becomes one year, after that free agent)

 -player does not sign – released before the next season

 -if no termination offered by club – required to offer contract with same terms

 -player can request option (terms the same and after the year player is free agent)

 -neither part exercises – required to reenter with same terms (salary determined in arbitration)

Equalization

 -compensation to clubs that lose free agent

 -each club submits its opinion and arbitrator chooses between the two final offers

 -clubs wary of potentially heavy equalization so avoided free agents

 -union reopened equalization discussion but received only improvements in pensions, insurance, and playoff money

World Hockey Association

 -successful lawsuits allowed players to jump leagues

 -Hull signing – lead to increases in average salaries

 -WHA never a serious rival but drained NHL by causing them to expand

 -merged in 1979

 -WHA teams paid $6 million to enter NHL

 -WHA drafted players from unprotected lists of NHL teams

Legal Issues

*Cheevers*

 -contented Paragraph 17 violates Sherman Antitrust Act (contact stated right to enjoin players through court injunction for playing for another team, and perpetual reserve clause)

 -Bruins contended collective bargaining immunity (court noted it was not arrived at through bargaining)

 -allowed the players to jump leagues despite the clause in their contract

 -no irreparable harm (losing the players would not significantly affect the team)

*Hampson*

-contrary ruling by district court

 -injunction (unable to switch teams) because of irreparable injury (losing unique services of player)

 -overruled based on irreparable harm to new club and public interest (impaired if injunction was issued)

 -healthy economic development of increasing competition so allowed

-issue if NHL violated antitrust law by trying to enforce reserve clause and preclude them from playing in WHA (courts found they did and injunctive relief granted to WHA teams)

*Peters*

 -not allowed to switch leagues

 -court limited the option year to one rather than three years or perpetuity

*McCourt*

-first major sports case to confront labor exemption when clause was specifically in CBA

 -court applied Mackey (violated antitrust law, impediment to mobility)

 -restraint primarily affected players therefore was a mandatory subject under NLRB

 -differences from Mackey (NHL players exerted great pressure on reserve system alternatives thus satisfying arm’s length bona fide requirement whereas NFL “weak” did not satisfy this requirement)

 -McCourt – neutral third party not commissioner determined compensation

 -author perceives Mackey should have been decided the same was as McCourt

1981-82

 -player proposal (no compensation for free agency)

 -owner proposal (scale similar to NFL)

 -overtime an issue (unusual for a union to have a voice in determining playing rules)

 -union wanted 2 year, owners wanted 7 year deal

 -cooperation between principals (willingness to compromise) integrative bargaining, outside mediation not necessary

 -owner argument (money invested in players would be lost in free agency)

 -players felt equalization kept salaries down, concern for lower average age and shorter career (4 or 5 years)

 - and 5 year agreement

 -players conceded more than owners (accepted overtime)

 -if player over 33 no compensation

 -if under 24 or less than 5 years experience (old system)

 -offers up to $85,000 no compensation

 -right of first refusal except for offers over $85,000

 -fairly steep compensation levels

 -combines compensation based on salary (football) and right of first refusal (basketball) and protection of certain players (baseball)