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)