CHAPTER I

THE FUTURE OF LABOR ARBITRATION— A CHALLENGE *

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In discussing labor or industrial arbitration (two terms which are interchangeable), I must, of necessity, deal with the subject from what is generally called "the public point of view." I have never met a payroll (other than for a private stenographer) or ever belonged to a labor union. Nor have I represented either an employer or a union in any matter. I have long been, however, a student and teacher in the field of industrial relations and I have held quite a few positions in the public service in which I participated in decisions settling literally thousands of labor-management disputes. My experience in private arbitration, however, is limited and it would be presumptuous for me to talk to you as an expert on the subject. If I can make any contribution, it lies in presenting an overall view of labor arbitration, past, present, and future, from the point of view of the public welfare, as it appears to me.

The Public's Interest in Settling Labor Disputes Peacefully

In such an approach, consideration of industrial arbitration may well begin with the public's great concern with settling labor disputes peacefully. Looked at statistically, this concern appears exaggerated. Strikes are not now and never have been the most important source of wasted manpower in American

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industry. This will be clear from a comparison of the man-days lost by reason of strikes with the days lost because of industrial accidents. The impression generally prevails that the industrial accident problem has been all but licked. Yet in 1946, which was by far the year of greatest strike losses, reaching the immense total of 116,000,000 man-days lost through strikes, the total of the man-days directly lost because of industrial accidents was 260,000,000 days—and this was a normal year for industrial accidents. The Bureau of Labor Statistics gives a much lower total for time lost because of industrial accidents but is careful to explain that its figures relate only to the temporary disability losses and do not take account of the much larger waste of manpower resulting from permanent injuries and deaths due to industrial accidents. The figure of 260,000,000 man-days directly lost through industrial accidents is the estimate of the National Safety Council, which is employer supported and controlled. This is a total more than twice as great as the record strike losses of that year. Moreover, industrial accidents are not nearly as important a source of waste of manpower as are sickness, unemployment, lack of materials, failure to stabilize employment, and still other causes.

The statistics on strike losses take account only of the time lost by the workers on strike and by other workers employed by the same company who are thrown out of work although not themselves striking. They make no allowance for lay-offs elsewhere which may be caused by reason of the stoppage of materials from the struck plants. In some strikes such indirect losses greatly exceed the direct strike losses. To some degree offsetting this factor is the fact that in all strike statistics every day during which a strike continues is counted as a man-day lost by reason of the strike. But the assumption that the workers would otherwise have full-time employment is not always true. I believe, however, that on balance the strike statistics understate the loss resulting from strikes, particularly during periods of near full employment, but not to the degree of making strikes among the first three causes of wasted manpower.

However, it is not the loss of man-days of work which are attributable, directly or indirectly, to strikes which constitutes their most serious consequence. Strikes formerly resulted in much destruction of property and some loss of life—aspects of labor troubles from which, fortunately, we have been pretty free in the war and postwar periods. Even today, they leave behind them much bitterness, with consequent lowered morale and failure to attain wholehearted cooperation from the workers in maximum production. In other lands strikes have menaced the safety of the state. It is because strikes have such alarming potentialities that the Communists, whose loyalty is basically to a foreign power rather than their own country, have devoted so much of their efforts to stirring up labor troubles. In this country we have been free of revolutionary strikes and have had but few demonstration or other political strikes. But even here strikes represent an industrial breakdown and at times appear very menacing.

Thus, I take my position with nearly all other Americans who are concerned about strikes. To tell the entire story, it must be emphasized that strikes are much more a symptom than a cause of unsatisfactory labor-management relations. It is wholesome, as I see it, also to debunk unreasoning fear of strikes and to try to develop a calmer public attitude toward the strike problem. Our democratic way of life and our economic system of free enterprise have too much vitality and real value to be in danger of being destroyed because we have strikes. Both will be destroyed if we adopt the totalitarian policies of suppression of labor organizations and the outlawing of strikes. But, however calmly we may look at strikes, no other conclusion is possible than that it is highly desirable that we have few strikes and that those which occur be settled promptly and with a minimum of bitterness.

History of Labor Arbitration

This brings me to arbitration as a method of preventing and settling strikes. Labor arbitration in its broadest meaning is

the process of settling labor disputes by the decision of a third party or outsider, acting either alone or having the casting vote where the arbitration board includes representatives of the directly interested parties. In this sense, arbitration includes compulsory arbitration and the settlement of the issues in labor disputes by the decision of some governmental tribunal. These types of arbitration are substitutes for collective bargaining, at least as to the issues going to arbitration. But the term is most properly applied to voluntary arbitration, in which the parties have freely contracted to accept the decision of the arbitrator. Voluntary arbitration is an outgrowth of collective bargaining, not its antithesis.

Arbitration is very nearly as old as are labor disputes. The same act of the British Parliament of 1824 which repealed the Combination Acts, which up to that time had outlawed labor unions, made provisions for the settlement of wage disputes either by tribunals set up voluntarily by the parties or through the courts, if they failed to act. In this country the first known instance of voluntary arbitration occurred in 1865 in a dispute involving the iron puddlers at Pittsburgh. Following the great railroad strike of 1877 and throughout the 1880's and 1890's there was a great deal of public interest in arbitration. The Knights of Labor and many of the labor unions at that time sought legislation for the establishment of governmental boards of arbitrations. At least officially, they favored arbitration, rather than strikes, as a method of settling labor disputes. In the nineties and for some years after the turn of the century, the National Civic Federation made arbitration of labor disputes its major objective. Under the auspices of its Industrial Committee a National Congress on Industrial Conciliation and Arbitration was held here in Chicago in 1894. The first state law dealing with industrial arbitration was passed in Maryland in 1878, followed by New Jersey in 1880, and Pennsylvania in 1883. In 1886 Massachusetts and New York established the first state boards of arbitration. By 1901, there were 17 state boards of arbitration, and nearly a dozen other states provided for the voluntary arbitration of labor

disputes without setting up permanent arbitration boards. Nationally, President Cleveland in April 1886 recommended the establishment of a federal tribunal for voluntary arbitration in labor disputes affecting interstate commerce. Congress responded by passing the Federal Conciliation Act of 1888, the first of the laws designed to insure the peaceful settlement of railway labor disputes. This act has been replaced, successively, by the Erdman Act of 1898, the Newlands Act of 1913, the Railroad Labor Board Act of 1920, and the Railway Labor Act of 1926, which, with some amendments, the most important of which were adopted in 1934, is still in effect.

Despite all of the legislation, relatively few labor disputes were arbitrated prior to World War I. In a study on the "Results of Arbitration Cases Involving Wages and Hours, 1865-1929," made in 1929, the United States Bureau of Labor Statistics reported that a total of 54 arbitration cases were discovered prior to 1915, of which 28 involved industrial concerns. These arbitrations seem to have been resorted to as a means of settling strikes already in progress or of preventing immediately imminent strikes. Arbitration as a method of interpretation of contract provisions was as yet practically unknown. Of all industrial arbitrations, by far the most important was that of the Anthracite Coal Commission of 1903, an ad hoc tribunal which Theodore Roosevelt virtually forced down the throats of the operators, with the strong support of public opinion, to settle the great Anthracite Strike of 1902. Almost all of the state arbitration laws remained dead letters.

The most significant development was the inclusion of provisions for arbitration in trade agreements between employers or employers' associations and unions. The earliest of these was the agreement between the American Newspaper Publishers' Association and the International Typographical Union concluded in 1900, which remained in effect until quite recently. The agreement made a few years later by the same Association with the International Printing Pressman's Union is still in effect and within the last month has been renewed for another five years. Other labor-management agreements prior to World

War I providing for arbitration were made with the streetcar men's union, the clothing workers, and the electrical workers. In these agreements no distinction was made between disputes over the terms of contracts and disputes over the interpretation of contract provisions, but the former type of arbitration seems to have been the one the parties had most in mind, at least initially. A large percentage of all agreements now in effect providing for arbitration of contract terms when the parties fail to agree in renewal negotiations had their beginnings in this early period.

During World War I, as in World War II, the Government played a decisive role in the settlement of labor disputes. There were no less than 15 independent federal agencies which concerned themselves with the settlement of labor disputes over wages and other issues and 2,000 decisions were rendered by these agencies. The most important of these was the National War Labor Board, whose composition and legal authority were closely copied in the establishment of the National War Labor Board of World War II. In the majority of the cases decided by the NWLB of World War I, the parties stipulated in advance that they would abide by the Board's decision. It also acted, however, on unilateral submissions and even on its own initiative. Most of the other wartime boards concerned with labor relations actually fixed the wage scales which government employing agencies and government contractors had to pay. In meat packing and a few other industries, machinery for the arbitration of all disputes not settled through negotiations was instituted during this period. Judge Alschuler selected to serve in the Chicago meat packing plants was the first permanent labor arbitrator in this country.

Many of the events following World War I read strangely like those of the period after World War II. The President assembled an Industrial Conference, composed of leading industrialists and labor leaders, to draft a postwar labor policy. This Conference was unable to reach any agreement. Following World War II, also, there were inflationary price increases and

many strikes. Until 1946, 1919 was the record year for strike losses.

Unlike the situation after World War II, there was strong demand for compulsory arbitration. This was unanimously opposed by organized labor but had much support within the ranks of management. This movement resulted in the creation of the Railroad Labor Board and the Kansas Industrial Relations Court, both in 1920. The latter was the only agency ever established in the United States for compulsory arbitration on the Australian model; the former, the nearest approach to compulsory arbitration we have ever had in the national government. The Kansas Industrial Relations Court Act was held unconstitutional by the United States Supreme Court in its application to coal mining and meat packing. The Railroad Labor Board functioned so unsatisfactorily that the carriers and the railroad unions got together and agreed upon the legislation which became the Railway Labor Act of 1926, in which compulsory arbitration was abandoned.

In the following New Deal period, the federal government intervened in labor relations to give protection and encouragement to unions. It also strengthened the United States Conciliation Service, which had its beginning in World War I. That service encouraged the arbitration of disputes over issues which could not be resolved in negotiations and through conciliation. It maintained a staff of full-time arbitrators and also designated many other ad hoc arbitrators on request of the parties. It encouraged inclusion in agreements of provisions for the arbitration of disputes arising over the application or interpretation of contract provisions. Far more commonly than any other agency, it was named in agreements as the body to choose the arbitrator where the parties could not agree.

Another agency which became active at this time in promoting industrial arbitration was the American Arbitration Association. This organization had behind it more than ten years of successful promotion and direction of commercial arbitration when in 1937 it launched its Industrial Arbitration

Tribunal. By 1941, it had panels of arbitrators in 1600 cities, which had handled over 700 industrial arbitration cases.

During this period, particularly after the Supreme Court sustained the Wagner Act in April 1937, union membership grew apace, as did labor-management agreements. In many of these agreements, provision was made for arbitration of unresolved disputes over their application and interpretation. Permanent arbitration had been introduced earlier in a few contracts and now were provided for in still more contracts, notably General Motors. It was at this time that industrial arbitration emerged in this country as a profession, with only a few practitioners but these rendering a grade of service inspiring public confidence.

It is generally stated that in World War II we again had compulsory arbitration. We assuredly did not have free collective bargaining, but we also did not have compulsory arbitration of the traditional type. While the War Labor Board decided no less than 21,000 dispute cases, there were more than twice as many agreements concluded without Board participation. In all cases in which it passed on the issue, the National War Labor Board inserted requirements for the arbitration of disputes arising over the application and interpretation of contract provisions. In cases which involved disputes of this character, it quite often sent them to arbitration for settlement. Its standard union maintenance of membership provisions included arbitration of disputes over the application of these provisions to individuals who claimed that they were not bound thereby. While it did not direct parties to take on permanent arbitrators, its influence was an important factor in a considerable increase of such arrangements. Altogether, the war period was one of great advances in voluntary arbitration, confined largely to arbitration under contract provisions.

Whatever may have been the merits of the National War Labor Board as an agency for the settlement of labor disputes in wartime, no one—least of all the Board members—wanted it continued as a peacetime agency. It disappeared from the scene promptly after the War, on its own suggestion. There

followed the most disturbed labor relations situation we have ever had. For the first ten months after the close of the War, we had unprecedented strike losses. Since February 1946, the general trend of strike losses has been downward and since June of that year has not been so very abnormal. Public alarm and resentment over the strikes occurring during this period were largely responsible for the enactment, last year, of the Taft-Hartley Act, which represented a reversal in the prior policies favoring unions and introduced more extensive government controls of industrial relations than we have ever had in peacetime. This Act is so new that no judgment based upon its actual operation is possible. But it has given rise to bitter controversies and strong resentment on the part of union leaders and the dyed-in-the-wool unionists.

Yet there is little doubt that in this most recent troubled period real progress has been made in the development of machinery for the peaceful adjustment of labor disputes, particularly in relation to voluntary arbitration. The Labor-Management Conference of December 1945, composed of 36 representatives of the major industrial and labor organizations, unanimously adopted a resolution urging inclusion in all labor-management agreements of provisions for final and binding arbitration of all disputes involving the application and interpretation of the agreements as the final step in the grievance procedure. This recommendation was subsequently endorsed by both the National Association of Manufacturers and the Chamber of Commerce of the United States. It is estimated that at present seven out of ten labor-management agreements provide for the arbitration of disputes over the meaning of contract clauses, usually with the provision that the arbitrator may not add to or modify the contract. In a larger number of contracts than ever before, permanent arbitrators are provided for, but most commonly provisions are made for the selection of ad hoc arbitrators as cases arise. Arbitration of contract terms is much less common. Almost the only new development in this field has been the inclusion, in a number of contracts giving either party the right to reopen the wage issue after a

specified period, of a provision to the effect that, if no agreement is reached when the contract is thus reopened, the matter shall be settled by arbitration.

While voluntary arbitration has made great advances, compulsory arbitration has been less popular in the present postwar period than for many decades. While after World War I there was much support for compulsory arbitration among employers, it is now opposed almost unanimously by both employers and unions. A few states in 1947 enacted laws providing for what amounts to compulsory arbitration in public utility labor disputes. When in 1946 the Ball-Burton-Hatch bill was introduced in Congress, providing for near-compulsory arbitration in labor disputes employers generally fought shy of it. Both the National Association of Manufacturers and the Chamber of Commerce of the United States have taken a strong stand against compulsory arbitration and favor voluntary arbitration of disputes over contract terms only if the issues to be arbitrated are carefully defined.

To complete the survey, mention should also be made of the bearing of the Taft-Hartley Act upon arbitration. This Act does not mention arbitration in any of its provisions, but it does provide that when both negotiations and mediation have failed to bring about an agreement, the Federal Mediation and Conciliation Service shall try to induce the parties voluntarily to agree "to other means of settlement," which clearly include arbitration. This is the same practice always followed by the prior United States Conciliation Service. Another section which makes no mention of arbitration, even indirectly, may prove much more important. This is the section which allows both the employers and the unions to bring suits for damages in the federal courts for violations of union-management agreements, regardless of diversity of citizenship or the amounts involved. This section makes it highly desirable, for both parties, to include in all their agreements final and binding arbitration of all unsettled disputes over the interpretation and application of contract provisions. In the absence of arbitration provisions, the employers as well as the unions are likely to find themselves

involved in countless law suits. Once this is appreciated, it seems likely that provisions for arbitration of unsettled disputes over their interpretation and application will become practically universal in labor-management agreements in this country.

The Future of Arbitration

So much for the past and present of industrial arbitration. What of the future? Very great progress has been made, especially in recent years and in relation to arbitration over the meaning of contract provisions. The maximum possible use of voluntary arbitration as an aid for the maintenance of industrial peace and the improvement of labor-management relations, however, is not yet being made, particularly in disputes over the terms of employment to be set forth in contracts upon which the parties have not been able to agree.

As I see the situation, the further progress of industrial arbitration depends upon a number of factors. Among them is a wider understanding of the nature and functions of industrial arbitration. No less important and perhaps even more so is a larger group of qualified and experienced arbitrators. Important also for the wider use of arbitration over the terms of contracts are the careful definition of the issues to be arbitrated and at least tacit agreement on the standards to be applied in the settlement of these issues.

In some discussions of arbitration, industrial arbitration has been described as the substitution of a reign of law for industrial warfare. Under such a concept, arbitration proceedings become law suits, which are best settled through trial court procedures.

Few, if any, successful arbitrators hold such a concept of arbitration. It disregards the fact that there is little law that can be applied in disputes over terms of employment. It also ignores the point that in labor disputes, unlike most ordinary lawsuits, decisions rendered concern not past conduct but future relationships. After the judgment, the parties in labor disputes must still live with each other and litigation between them tends only to make it more difficult for them to get along.

The decisions rendered, moreover, are imposed by outside authority and for this reason are likely to be unacceptable to one or both parties.

Not quite so far off the mark but still basically unsound is the analogy between commercial arbitration and industrial or labor arbitration. The great progress made in commercial arbitration doubtless has stimulated the growth of labor arbitration. There is much of value in commercial arbitration for labor arbitration. But there is a fundamental difference in the nature of the disputes to be settled through commercial arbitration and voluntary labor arbitration. Both arise from contract, but the one is designed to avoid court litigation, the other to avert strikes. Commercial arbitration concerns property disputes; labor arbitration, human relations.

It is this aspect, that labor arbitration is concerned with human relations, which is the basic fact to be remembered in every consideration of the subject, as well as in the conduct of arbitration proceedings. In the Clayton Act, the dramatic declaration is made that "labor is not a commodity or article of commerce." This is not literally true, as labor is clearly an article of commerce. Labor is bought and sold daily, in most respects as are other services and commodities. But while inexactly expressed, there is a fundamental truth in the dramatic declaration of the Clayton Act, which Samuel Gompers heralded as "Labor's Magna Charta." Labor is an article of commerce, but it is very different from the commodities and services which are the subjects of business contracts. The fundamental difference is that labor, the article of commerce, is inseparable from the laborer, the human being. Both the corporation and the union are artificial persons, and labor and management are abstractions. But the people who run the business and all their subordinates, as well as the union leaders and the rank and file of the union members are real persons—men and women, the finest of all creation. As such, they are entitled to treatment in accord with the dignity of human personality. It follows also that labor arbitration must be concerned not merely with the decision of particular disputes but

with the development and maintenance of friendly, cooperative labor-management relations.

In our democratic United States of America, in the present day and age, it is recognized that the best prospects for friendly, cooperative labor-management relations lie in free and genuine collective bargaining. This was first proclaimed to be the national policy of this country in the declaration of principles to govern labor relations during World War I, which was unanimously adopted by the National War Labor Board of that day, of which the then Ex-President and later Chief Justice William Howard Taft was Co-Chairman. Subsequently, it was written into the Railway Labor Act, the Norris-LaGuardia Act, and the National Industrial Recovery Act. It was spelled out, in more detail, in the National Labor Relations Act of 1935 and implemented by administrative machinery and procedures to make effective the public policy of encouragement of collective bargaining. This policy has been changed only in minor respects by the Labor-Management Relations Act of 1947. Under this Act, it is now the duty of both labor and management to try to adjust all differences by collective bargaining in good faith.

Labor arbitration must fit in with this declared public policy of the United States. Compulsory arbitration, clearly, is at variance with this policy, but voluntary arbitration can be so set up and conducted as to be entirely consistent therewith.

This is most easily accomplished in arbitration over the application and interpretation of provisions of labor-management agreements Even in such disputes it is much better that the parties should settle their disagreements themselves than that any arbitrator should do this for them. It follows that arbitration should be resorted to only as the last step in the grievance procedure and that the arbitrator should always insist that the prescribed procedure has actually been followed before he will assume jurisdiction. Where the arbitrator's standing is such that he can do so without endangering the entire arbitration provisions, the arbitrator may also properly try to pressure or shame the parties into settling disputes legitimately before him which

they should have settled earlier. But experience has proven that quite often disputes of this character are not settled between the parties, although both act in good faith. To prevent such unsettled disputes from producing bitter feelings, retarded production, and resulting in strikes, provisions for the arbitration of all such disputes over the meaning of agreements are essential in all labor-management contracts.

It is equally essential that the jurisdiction of the arbitrator be restricted to the application and interpretation of the contract provisions and that he be specifically prohibited from adding to or modifying the contract. In the interpretation of contracts, as in the interpretation of statutes, new situations will constantly arise. Where a reasonable construction of the language used in the contract covers the unthought-of situation, the arbitrator must apply the contract provision. Where this is not the case, the arbitrator can do nothing but to hold that the contract does not cover the situation. For the arbitrator to add to or modify the contract amounts to his usurping the functions of collective bargaining. While sometimes it may avoid a strike, it undermines collective bargaining and perverts the purposes of arbitration. On the other hand, voluntary arbitration over the meaning of contract provisions, and limited to the terms of the contract, is not only consistent with collective bargaining, but, as Lloyd K. Garrison expressed it, is "a technique for making collective bargaining work and survive."

Voluntary arbitration of disputes over the terms to be included in contracts may or may not be consistent with the public policy of this country of encouraging collective bargaining. In a sense, voluntary arbitration over contract terms represents a failure in collective bargaining. It is, however, an outgrowth of the process and is often as essential for its survival as it is for the avoidance of strikes. Since it is voluntary, the parties must agree to the arbitration and generally will not make such an agreement until they have exhausted the possibilities of settlement through collective bargaining. Nevertheless, the arbitration of new contract terms may do violence

to our American policy of encouraging the parties to settle their own difficulties. This is most likely to occur where the arbitrator is given a blank check to write the contract terms, without the parties defining what issues he is to decide, let alone furnishing him with any standards to guide his discretion. This amounts to substituting the judgment, philosophy, point of view, and prejudices of the arbitrator for the give-and-take of the conference table. Even so, if arbitrators heed the suggestion of Arthur S. Meyer that their decisions must fall within "the area of expectancy" of the parties, such wide-open arbitration may prove beneficial. But it is surely sound advice, which George W. Taylor has given labor and management, that democratic processes and the interests of the parties will be best served if they will strictly and carefully define and limit what is to be arbitrated. Where this is not done before the arbitrator is brought in, he may, before proceeding with the case, try to get the parties to agree on the issues and, if he has unusual tact, on the standards which are to be controlling.

Unfortunately, acceptable standards for the decision of many, if not most, of the issues in disputes over contract terms are lacking. Nor can much help be gotten from "experts" in finding answers, except on some technical matters. Problems in human relations cannot be solved by formulas, and theories also are not very helpful. On many of the most important issues—wages, for instance—agreement is completely lacking on theories, to say nothing of the practical application of these theories. Successful arbitrators need to keep abreast of the thinking of intellectuals and the studies of specialists. But generally they will have to develop their own standards. In doing so, they are well advised, I believe, to turn to the practices and concepts prevailing in industry rather than to abstract theories or to the welter of confusing propaganda with which we are now deluged on all aspects of labor relations. What is acceptable and within the "area of expectation" is far more important to successful arbitration than the preconceived notions of anyone, including not only those of the arbitrator himself but also those of the many other people who want to give him advice.

Altogether too many arbitrations have turned out badly and have set back the cause of arbitration. The fault has not lain exclusively, nor even principally, with the arbitrators. Failure of the parties to define the issues and still more their poor presentations of cases have accounted for far more bad results in labor arbitrations than incompetent or inexperienced arbitrators. Another cause of poor results has been the inexcusable practice, often indulged, of tricking the other side into accepting as arbitrators persons known to be partisans. Treating arbitration as a contest to be won rather than as a means for solving a labor relations problem which the parties could not solve themselves is bound to lead to disappointments. Emotions running as high as they do in labor disputes, the casualty rate even among the best of arbitrators is bound to be very high. Being human they will make mistakes, and even without making serious mistakes, one or both parties may get "down on them" to such an extent that they can no longer be useful. This is the logic behind the usual provision in agreements for permanent arbitrators, to the effect that either side can terminate their services at will. This is a sound provision in the present stage of arbitration in most industries, although inclusion of severance pay in the plan would make it more fair.

But when all is said, the fact remains that many arbitrators have not measured up, particularly amateur and ad hoc arbitrators. It is still widely believed that the only qualifications needed in an arbitrator are honesty and impartiality. These are prerequisites, a sine qua non. But enduring success in labor arbitration calls for very much more on the part of the arbitrator than honesty and impartiality. It demands a broad knowledge of industrial relations and a good deal of specialized information on the issues arising in labor disputes. It requires a disposition not easily ruffled and a keen appreciation of the rights and feelings of others. It calls for an understanding of human nature and a realization that the matters to be dealt with are basically human relations problems. Beyond that, it requires what might be termed an "uncanny" ability to grasp the real situation, amid pretenses and arguments, which often

are made for purposes ulterior to the arbitration. And it calls for imagination and ingenuity for finding acceptable bases of settlement within the framework of reference—which, of course, may never be departed from.

Arbitration is an art rather than a body of knowledge. It cannot be learned in college, nor from books and speeches. It is not something that every lawyer can do nor even learn. Nor is every judge a good arbitrator and, much less, every professor or clergyman. Most certainly it is not a guarantee of competency that someone announces himself to be an arbitrator and advertises that he once was employed by the War Labor Board or served on one of its panels. Nor is inclusion on one of the many long panels of arbitrators of the American Arbitration Association an indication of anything beyond good character and presumed impartiality.

There is much about arbitration that can be learned from books, from experience in industry, from personal contacts with aspects of the problems to be decided, and from the experiences of others. A well-rounded education and quite likely also special training in industrial relations and law are valuable. But the best teacher is probably experience. The best way to get this experience, I believe, is to work with an able, experienced arbitrator. Where this is not possible the vitally needed experience in labor arbitration must be gained by the trial and error method of ad hoc arbitrations, in, let us hope, minor cases.

In my discussion of the factors likely to determine the future of labor arbitration in this country, I have said nothing thus far, about the National Academy of Arbitrators. But it is my conviction that the development and functioning of the National Academy of Arbitrators will have a great deal to do with the future of arbitration.

The National Academy of Arbitrators will serve a most useful purpose if membership in the Academy comes to be regarded, as I believe it is already, as a badge of distinction. Constituted as it is, election to the Academy is equivalent to a certification of competence by the leaders in the profession. In doing this, the Academy will stimulate beginners in arbitra-

tion to give their work their very best efforts and make available to employers and unions a reliable and easily ascertainable list of qualified labor arbitrators.

The National Academy of Arbitrators will also serve the very desirable purpose of enabling the labor arbitrators to get together, to discuss their common problems and to profit from an exchange of experiences. In course of time it may become a true clearing house for information, not only about arbitration, but also for data useful to arbitrators. It also has great potentialities in the sound formulation and general acceptance of professional standards for arbitrators. It may, at one and the same time, help develop a larger number of competent arbitrators and eliminate the quacks and incompetents.

The potentialities of the National Academy do not lie solely or principally in its value to the labor arbitrators. Its fundamental purpose should be the advancement and improvement of labor arbitration, in the interests of better labor-management relations and public welfare. One of the major purposes of the National Academy of Arbitrators should be to increase popular understanding of the purposes, values and limitations of labor arbitration and of the conditions essential to its effective use. It can be very useful in helping inexperienced arbitrators find themselves and in familiarizing employers and unions with the institution and its proper uses. Acting with other interested groups it can and should foster impartial and scientific studies of arbitration and of major problems arising in arbitration.

Any sort of an organization of professional, or would-be professional arbitrators, will not do. A self-selected group of arbitrators could conceivably become something akin to a racket or more likely, nothing more than a restricted trade association. An organization interested primarily in setting fees and keeping out competitors is anti-social, even if it adopts high-sounding declarations of purposes. It would also prove a set-back to arbitration if the principal result of the establishment of a new organization would be controversy and

rivalry with other organizations, which have related, although not identical, purposes.

I have no fears that such unfortunate results will follow the establishment of the National Academy of Arbitrators. The best assurance that this Academy will be a great force for the advancement of labor arbitration and the realization of its great possibilities for the public good lie in the caliber of the men who organized the Academy and at this time guide its functioning.

Whether the National Academy of Arbitrators will realize its full possibilities will depend mainly upon its members and officers. This is my challenge to you. Labor arbitration has proven of great value in many industries and establishments and in literally thousands of cases. It should become much more widespread and a still greater force for improved labor-management relations and for lessening and tempering industrial strife. Its future to a very considerable degree is up to the labor arbitrators and our National Academy of Arbitrators.