

APPENDIX B

REPORT OF SPECIAL COMMITTEE ON STATUTORY REGULATION OF LABOR DISPUTE ARBITRATION*

Pursuant to instructions of the Governing Board of the Academy a special committee was constituted in September 1957 to consider the subject of statutory regulation of labor dispute arbitration, and especially the Uniform Arbitration Act, and make recommendations to the Board. Committee Chairman Russell A. Smith appointed the following as members of the Committee:

Harry Abrahams
Gabriel Alexander
George Bowles
Louis Crane
Robert Feinberg
Robert Howard
M. S. Ryder
Joseph Stashower
David Wolff

The Committee met in Ann Arbor September 21-22. All members were present except Messrs. Feinberg and Howard, both of whom had indicated their views with respect to the Uniform Act.

* EDITOR'S NOTE: For earlier reports of the Academy's Committee on Law and Legislation see: *ARBITRATION TODAY* (Washington: BNA Incorporated, 1955), Appendix B and C; *MANAGEMENT RIGHTS AND THE ARBITRATION PROCESS* (Washington: BNA Incorporated, 1956), Appendix C and D; *CRITICAL ISSUES IN LABOR ARBITRATION* (Washington: BNA Incorporated, 1957), Appendix B and C.

Prior to the meeting the Chairman sent each member of the Committee a memorandum containing the following suggested agenda for the meeting:

"(1) Have our substantive criticisms of the Act been sufficiently met by the 1956 amendments relating to judicial review so that we should now approve the Act in substance and recommend that the Academy withdraw its objections to the Act?

"(2) If not, should the Academy nevertheless withdraw its objections to the Act?

"(3) Should the Academy withdraw its opposition to the Act but nevertheless propose further amendment by legislative bodies considering the Act?

"(4) What is the impact of the Supreme Court's decision on June 3, 1957, in *Textile Workers Union of America v. Lincoln Mills of Alabama* (40 LRRM 2113) on the subject of state arbitration legislation and on the Academy's position or interest in the subject?

"In this case the Supreme Court held that arbitration provisions contained in collective agreements are specifically enforceable under §301 of the Taft-Hartley Act and that the substantive law to be applied in suits under §301 is 'federal law.' For an analysis of the impact of this decision see the report of the Committee on Labor Arbitra-

tion of the Labor Relations Section of the ABA presented July 12, 1957, and reprinted in a special supplement to the *Labor Relations Reporter* for July 17, 1957.

"(5) Should the Academy recommend that there be federal legislation on the subject of voluntary arbitration of labor disputes?"

"It seems to be implicit in the *Lincoln Mills* decision that the 'federal law' to be applied under §301 is not the United States Arbitration Act, but, instead, a federal common law to be developed by the courts. This suggests the possible desirability of supplementary federal legislation."

At the meeting the Uniform Act was examined section by section, and, in addition, the question of regulatory legislation was considered generally. The members of the Committee attending the meeting concluded unanimously as follows:

1. Despite the amendments to Section 12 of the Uniform Act made in August, 1956, the Act remains subject to serious criticism insofar as it would apply to labor dispute arbitration. Accordingly, the Academy should continue to oppose the adoption of the Act in its present form. (The Committee's detailed criticisms of the Act are stated in an Appendix to this report.)

2. Analysis of the Uniform Act indicates that any attempt to cover both commercial and labor dispute arbitration under a single statute would be unwise and impracticable; accordingly, the Academy should not attempt to prepare and propose amendments which would meet legitimate criticisms of the Act insofar as it would apply to labor dispute arbitration.

3. While the Academy should con-

tinue to oppose the enactment of the Uniform Act, it should nevertheless recognize that the subject of arbitration legislation is a matter of increasing general interest, and that the Academy has a responsibility to be constructive, rather than simply negative, on this subject. This general interest is manifestly heightened by the decision of June 3, 1957, by the U. S. Supreme Court in *Textile Workers Union v. Lincoln Mills*, 40 LRRM 2113, holding that agreements to arbitrate grievances are enforceable by the federal courts under Section 301 of the Taft-Hartley Act and that the substantive and other law to be applied is "federal law" (though, by fairly clear implication, not the U. S. Arbitration Act).

4. The Academy should discharge its responsibility by developing, promulgating and proposing a Labor Dispute Arbitration Act, which could be enacted at either federal or state level, and at the federal level by amendment of the Taft-Hartley Act or otherwise. The Academy's Committee on Law and Legislation, or a special committee, should be instructed to develop such proposed Act, and should be given such research and other technical assistance as may be necessary, within reasonable limits, to enable it to discharge this task as expeditiously and competently as possible.

Respectfully submitted,

Harry Abrahams
Gabriel Alexander
George Bowles
Louis Crane
M. S. Ryder
Joseph Stashower
David Wolff
Russell A. Smith, *Chairman*

September 22, 1957