

APPENDIX F

SURVEY ON AVAILABILITY AND UTILIZATION
OF ARBITRATORS IN 1972

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The Committee on the Development of New Arbitrators, with the concurrence of the Board of Governors, believed that a necessary concomitant for any program attempting to develop new arbitrators is a knowledge of how experienced arbitrators are being utilized. Nowhere is there available any specific data relating to the actual availability and utilization of those persons who have achieved a reasonably good degree of acceptability and experience as neutral arbitrators for labor disputes.

If the supply of labor arbitrators were measured by the numbers of persons whose names appear on the panels of the Federal Mediation and Conciliation Service and the American Arbitration Association, the number would be in excess of 1,400. However, the vast majority of those persons have had either no arbitration cases or, at the most, only a few. In 1970, 458 persons of the 1,475 whose names are carried on the AAA panels were responsible for all of the awards issued in that year.¹ Out of that number, only 167 issued more than five awards during the year.²

Unquestionably, there are a number of persons who have served as arbitrators at one time or another and who are not members of the National Academy of Arbitrators. Nevertheless, it is reasonably safe to conclude that, with only a few exceptions, nearly all arbitrators who could be categorized as having had both experience and acceptability for any length of time are members of the Academy. They constitute the group responsible

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¹ Patrick R. Westerkamp and Allan K. Miller, "The Acceptability of Inexperienced Arbitrators: An Experiment," 22 *Lab. L.J.* 765 (1971).

² *Id.*

for handling a major part of the labor arbitration that takes place today.

A questionnaire was distributed to Academy members in December 1972. By March 1973, 227 replies had been received, which represented 57 percent of the Academy's membership at that time. The returns received have been consolidated on a regional as well as on a national basis for the purposes of pinpointing to the best extent possible the areas where shortages, if any, might be identified or indicating areas of underutilization, if any.³ A summary of the results of this survey follows.

Availability of Members as Arbitrators

Of the 227 replies, 81 members (35.7 percent) reported that they work at arbitration on a full-time basis, 131 (57.7 percent) work on a part-time basis, and 15 (6.6 percent) were not active in arbitration in 1972. This can be compared with the results of the 1969 general survey of members of the Academy which had 54 (25.2 percent) members working on a full-time basis and 160 (74.8 percent) working part time.⁴ A small part of this difference in the number of full-time arbitrators is due to the fact that all who responded to this question by saying that they had 80 percent or more of their time available for arbitration were classified as full-time arbitrators. Eleven members so reported. Allowing for this variation, it is clear that there has been some increase in the number of members who are serving as arbitrators on a full-time basis since 1969.

As might be expected, the New York City region has the largest number of members working full time—13, or 45 percent of those reporting from that region. Illinois with 12 (50 percent of those responding from that region) and Washington, D. C., with 10 (77 percent) are the next two regions having the largest concentrations of full-time arbitrators.

The Rocky Mountain region is the only one without any full-time arbitrators and is, therefore, the only one served entirely by

³ See the last section of this appendix for the questionnaire and designation of regions. The regions are those of the National Academy for local membership organizations.

⁴ Jean T. McKelvey, "Survey of the Arbitration Profession in 1969," in *Arbitration and the Public Interest*, Proceedings of the 24th Annual Meeting, National Academy of Arbitrators, eds., G. G. Somers and Barbara D. Dennis (Washington: BNA Books, 1971), at 292, 293.

part-time arbitrators. Other regions most dependent on persons available for arbitration only on a part-time basis are the Southeast with 11 members (79 percent), New England with 13 (76 percent), the Southwest with 11 (73 percent), southern California including Hawaii with 13 (72 percent), and western New York with seven (70 percent).

Of all active arbitrators reporting, only nine (4.4 percent) spent 100 percent of their time as permanent arbitrators and, therefore, were not available for ad hoc work other than for a few exceptional cases. Also, nine (4.4 percent) received between 80 and 99 percent of their cases as a result of appointments as permanent arbitrators or permanent panelists. For four of the latter group, permanent appointments accounted for 90 percent of their caseloads. On the other hand, of 207 respondents, 67 (32.7 percent) indicated that 100 percent of their caseloads resulted from ad hoc appointments.

Part-Time Arbitrator Time Available and Utilization

As far as time available for arbitration in 1972 is concerned, the average part-time arbitrator had 30.8 percent of his time available for handling labor arbitration cases. The range was from as low as 5 percent to as high as 80 percent. A large number, 55 (44 percent), had a fifth or less of their time available, while 25 (20 percent) had 50 percent of their time available. Only 13 (10 percent) had more than 50 percent of their time available for arbitration assignments.

The regions where the majority of part-time arbitrators had 20 percent or less of their time available were New England, western New York, St. Louis, the Southwest, Rocky Mountain, northern California, and southern California. In terms of average time available for part-time arbitration, those reporting from eastern Pennsylvania had the most—38.6 percent of their time—followed by the Southwest (35.5 percent), New York City (34.6 percent), and Michigan (33 percent). The regions where part-time arbitrators had the smallest percentage of time available were Rocky Mountain (15 percent), western New York (22.1 percent), and New England (25.1 percent).

In terms of utilization by labor and management of the time that part-time arbitrators had available, the average percentage of time actually devoted to arbitration by these arbitrators was 24.2.

When compared to the 30.8 percent figure for the time that was available for such work, 24.2 percent represents a national utilization rate for part-time arbitrators of 79 percent. In the 1969 study, the average percentage of time reported as having been devoted to part-time arbitration was 30.9 percent.⁵ Only 19 respondents (15.2 percent) actually devoted 50 percent of their time or more to arbitration as against 38 (30 percent) who had that much time available for such work. Seventy arbitrators (55 percent) spent 20 percent or less of their time in actual arbitration, compared with 55 who had only that amount of time available.

With regard to the number of part-time arbitrators the utilization of whose time was less than what they had available in 1972, one half, or 63 of those reporting, stated that they did not receive a sufficient number of cases to utilize fully the time they had available.

Five of the 16 regions had 60 percent or more of the part-time arbitrators reporting that their available time for arbitration was not fully utilized. They were southern California including Hawaii, with eight of 13 so reporting; eastern Pennsylvania with six of eight so reporting; Canada and St. Louis, each with three of four so reporting; and Rocky Mountain, with three of five so reporting. Washington, D. C., with no one reporting any underutilization of time, and Michigan, with only two of 10 arbitrators so reporting, were the two regions where only a small percentage reported that they did not have their available time utilized. Overall, it would appear that in 1972 the part-time arbitrators were not kept as busy as in 1969, and there has been some decline in the actual utilization of available part-time arbitrator time of Academy members.

Hearings Conducted and Decisions Issued

As far as days of hearings conducted and decisions rendered in 1972 are concerned, 208 arbitrators reported that they conducted 10,774 days of hearings for an overall average of 52.1 days. Two hundred six of these arbitrators issued 11,145 decisions, for an overall average of 54.1. Full-time arbitrators, on average, conducted 82.8 days of hearings and issued 90.1 decisions, while the part-timers averaged 32.7 days of hearings and issued 31.7 decisions.

⁵ *Id.* at 293.

Thirty-one full-time arbitrators held 100 or more days of hearings; the busiest arbitrator reported that he conducted 200 days of hearings in 1972. Nine arbitrators, or 11.5 percent of those reporting, conducted between 76 and 99 days of hearings, and eight full-time arbitrators (10 percent) reported holding fewer than 35 days. Thirty of the full-time arbitrators (38.4 percent) issued 100 or more decisions in 1972. Eleven (14 percent) issued fewer than 35 decisions, and 24 (31 percent) issued between 60 and 99 decisions for the year.

Among the part-time arbitrators, three (2.3 percent) conducted 100 or more days of hearings. Seven (5.5 percent) held between 76 and 99 days of hearings, but the largest number, 45 (35 percent) held between 10 and 25 days of hearings in 1972. Sixteen, or 12.7 percent, conducted under 10 days of hearings in that year. Nine part-time arbitrators (7 percent) rendered between 76 and 90 decisions in 1972, 45 (35.4 percent) issued between 10 and 25 decisions, and 22 (17 percent) issued fewer than 10 decisions.

The region with the highest average number of days of hearings conducted per arbitrator was New York City with an average of 83 days, followed by eastern Pennsylvania with 67 days and Washington, D.C. with 65. The regions with the lowest number of average days per arbitrator were southern California with 32.4 days and the Southwest with 32.7 days. New York City, with 13 (48 percent), had the largest number of arbitrators conducting more than 75 days of hearings a year; Michigan with six (33 percent) and Illinois with six (27 percent) were next in total numbers of arbitrators conducting 75 or more days of hearings in 1972. Regions where 50 percent or less of the arbitrators conducted 25 or fewer days of hearings were New England, eight (50 percent); western New York, five (56 percent); northern California, four (57 percent); and southern California, eight (50 percent).

Ability to Take Additional Caseload

The willingness of the arbitrator-respondents to take on additional cases in 1972 was covered by question 5 of the questionnaire. Of the 207 members who responded to that question, 121 (58.5 percent) answered in the affirmative, while 86 (41.5 percent) would not have taken more cases even if they had been

forthcoming. Forty-three, or 53 percent of the full-time arbitrators responding, answered in the affirmative, while 78, or 60 percent, of the part-time arbitrators were ready to accept more cases had they been forthcoming.

Of all arbitrators willing to accept more cases, 48 (40.3 percent) would have taken 11 to 20 additional cases, 36 (30.3 percent) would have taken 20 or more, and 35 (29.4 percent) had additional workload capacity for not more than 10. Of the 34 arbitrators who had conducted 100 or more days of hearings, 15 of them stated that they could have taken more cases. Seven would have taken 11 to 20 more, six more than 20, and two up to 10 additional cases. Conversely, of the 16 part-time arbitrators who conducted fewer than 10 days of hearings in 1972, 12 would not have taken on any more cases that year. Of the 43 full-time arbitrators who could have taken additional cases, seven wanted fewer than 10 cases, 17 would have taken up to 20, and 19 would have taken more than 20. Twenty-eight of the part-time arbitrators would have taken fewer than 10 additional cases, 31 would have taken up to 20, and 17 would have taken more than 20 additional cases.

Five of the six arbitrators responding from the Rocky Mountain region indicated availability for additional cases had they been forthcoming in 1972. Five of seven from the St. Louis region responded as being available for additional cases. Other regions where the numbers available for more cases were greater than the national averages were New England, 10 for 63 percent; Canada, four for 67 percent; and Michigan, 11 for 61 percent. The region where arbitrators were least willing to take on additional cases in 1972 was northern California where only three of the seven who responded indicated availability for additional cases. In all other regions, 50 percent or more of the arbitrators would have taken additional cases had they been forthcoming.

Availability for Appointment From Panels

Questions 6 through 12 of the questionnaire sought to elicit information to measure the availability of Academy members for appointment to ad hoc cases from panels of appointing agencies. In 1972 the average member had 24.6 percent of his workload in the form of cases received from permanent appointments, either as an umpire or a member of a permanent panel; in 1969 the

average percentage reported was 34.5.⁶ Sixty-seven respondents reported that their workloads consisted entirely of ad hoc appointments. Regions reporting the smallest number of permanent appointment cases were the Southwest, southern California, and St. Louis. Twenty-four arbitrators (11.6 percent) reported 75 percent or more of their work resulted from permanent appointments; nine of them (4.3 percent) devoted all of their time to permanent appointment cases.

Approximately three fourths of the cases received by respondents were ad hoc appointments. Of these, 55.1 percent came from appointing agencies and 44.9 came directly from the parties. In the 1969 study the figures were almost identical—44 percent directly from the parties, 55.3 from appointing agencies, and the remainder from the courts or other sources.⁷

Only 12 arbitrators, or 5.9 percent of those responding, received 100 percent of their ad hoc appointments from appointing agencies. All told, 108 arbitrators (53 percent) stated that 60 percent or more of their appointments came from appointing agencies, while 45 (22.2 percent) received between 40 and 59 percent of their assignments from that source. Twenty-one arbitrators (10.3 percent) did not receive any of their ad hoc cases from appointing agencies. Of these 21, 16 received 100 percent of their ad hoc appointments directly from the parties and five received theirs from other sources.

To make themselves available for assignments, 186 arbitrators, or 88 percent of the active arbitrators responding, listed their names as available for selection with one or more appointing agencies at some time during 1972. One hundred eighty-two (98 percent) were listed with the American Arbitration Association, and 166 (89 percent) were listed with the Federal Mediation and Conciliation Service. Fifty-seven members (31 percent) reported that they were listed with the National Mediation Board, and 98 (52.6 percent) were also listed with state appointing agencies.

In a number of cases these listings were subject to restrictions in the use of names for particular assignments. The most prominent restriction was an assignment only in the arbitrator's own geographic region (the Southeast, Northeast, etc.). Eleven arbitrators restricted their assignments to their own immediate metro-

⁶ *Id.* at 295.

⁷ *Id.* at 298.

politan area. Others cited such restrictions as availability only for cases in major cities with direct air connections, statewide assignments only, one for specified industries only, another for only at a certain time of the year, and still another for assignment only at the parties' request.

Removal From Active Appointment Lists

During 1972, 37 arbitrators (20 percent of those who had been listed) requested the removal of their names from one or more of the active ad hoc panels of appointing agencies. Of this number, 25 had their names dropped from the AAA, 27 from the FMCS, four from the NMB, and eight from other lists. On the average, an arbitrator who had his name removed remained off these panels for 5.9 months during the year. In the majority of cases—29, or 76 percent—the reason given was that their arbitration caseloads were too heavy consistent with their other commitments. Nine reported that they had to remove their names for other reasons, the most common one being for periods of travel.

Canada was the only region where there were no reported requests for removal of names from active lists. In all other regions the number of those who had been listed and who requested removal during 1972 ranged from one to seven. Illinois with seven, followed by Michigan and the Southwest with five each, were the regions with the largest numbers requesting removal from the active panels for ad hoc appointments.

Public Sector Activity

Although the members reporting were primarily concerned with arbitration, 90 of them, or 42 percent, were engaged in public sector work as mediators or fact-finders. The average time devoted to this work by these 90 members was 17.2 days. Eight arbitrators (9 percent) reported that they worked over 45 days in such activities in 1972. The majority—64, or 72 percent—devoted 15 days or less to these activities. An interesting fact is that some mediation or fact-finding activity in the public sector was reported in all regions. The busiest region for Academy members in this work was New York City where 19 of 27 active arbitrators (70 percent) said that they were engaged in such activity. Ten of 22 arbitrators in Illinois reported public sector work. Next in order were New England with nine, or 56 percent of the active

arbitrators; southern California with nine, or 53 percent; and Michigan with nine, or 50 percent. Regions where members did very little of this type of work were the Southeast, where only one member reported that he had between 11 and 15 days; western Pennsylvania, where one member reported six to 10 days; St. Louis, where two performed such work, one having less than five days and one between six and 10 days; and the Southwest, where two had between six and 10 days each.

Conclusions Relative to Availability and Utilization of Arbitrators

Overall, the data from this survey indicate that while there are a number of busy arbitrators, the majority are not having their available services utilized. This appears to be particularly true of the part-time arbitrator who had, on the average, 31 percent of his time available for such work but whose time was only 24 percent utilized—a utilization rate of about 79 percent. This rate is reasonably good, but it does not support a finding of any overall shortage of experienced part-time arbitrator time.

This conclusion appears to be reinforced when it is noted that in 1969 the average part-time arbitrator spent 31 percent of his time at arbitration. There is, therefore, some justification for the conclusion that since that time there has been some easing of the supply factor in so far as part-time arbitrator utilization is concerned.

The data gathered in this survey appear to indicate that there has been a real increase in the number of arbitrators practicing full time. The average utilization rate of full-time arbitrators was 82.8 days of hearings; they issued an average of 90.1 decisions. However, only 31 of the full-time arbitrators conducted 100 or more days of hearings, while one half had 75 or fewer days. Of the latter group, 16 expressed no interest in taking on additional cases in 1972. The other 24, or almost a third of the full-time arbitrators, clearly had time available for more appointments had they been forthcoming and would have taken such cases. Overall, 43, or 53 percent, of the full-time arbitrators stated that they would have handled more cases if they had been forthcoming. This summary statement probably should be moderated, however, because 15 of those who said they would have taken on additional cases had conducted 100 or more days of hearings during the year. Some of them might have substantial capacity for work, while others might be classified as overcommitted.

The conclusions must be, therefore, that most full-time arbitrators were quite busy people in 1972. At the same time, however, their services were not fully utilized. For the majority of the full-time arbitrators who would have taken on more cases, their workloads were such that the additional assignments would have had to come at the right time, and in all probability delays in scheduling hearing dates would have had to result. There was no great amount of additional time available for utilization among the full-time arbitrators as a group, although individual arbitrators did have such time.

During 1972, 88 percent of the reporting arbitrators had made themselves available for appointment to ad hoc cases through one or more of the appointing agencies. Of this number, approximately four fifths were continuously available for selection throughout the year. The number exercising meaningful restrictions on the use of their name was relatively small. Thus it would appear that most Academy members were available for ad hoc selection through appointing agencies throughout the year, refuting, at least in part, a rather commonly heard complaint that the lists the parties receive from appointing agencies do not contain the names of experienced arbitrators. If the complaint is valid, an explanation might be related to the manner in which panels are prepared for submission to the parties.

In general, therefore, with respect to the utilization of experienced arbitrators, the conclusion of this study is that, for the most part, the services of full-time arbitrators are being quite fully utilized. At the same time there is no conclusive evidence to indicate any real shortage of full-time arbitrator time. In the case of part-time arbitrators, the market has substantially more flexibility, for although there are a number of part-time arbitrators who are quite busy, there remains a substantial number who could have taken on more cases. The supply factor here would have to be rated as moderately easy. Certainly the results of this study do not support a conclusion that there is any severe overall shortage of qualified, experienced part-time arbitrators. There is good utilization of the time of Academy members, and no critical shortage is apparent.

Opinions With Respect to Shortages of Arbitrators

Questions 13 through 16 sought to elicit the opinions of the members with respect to their views on the shortage of arbitra-

tors. The questions distinguished between a shortage of persons qualified to perform arbitration work and acceptable arbitrators. The concept of "qualified" was defined as describing persons having the ability to do arbitration work, but was not necessarily restricted to those who had gained acceptability. "Acceptability" was then defined to include persons receiving five or more cases a year.

Needless to say, only a small percentage of the arbitrators reporting (19.6 percent) believed that there was presently any shortage of persons qualified to be arbitrators in their regions. A slightly higher percentage (24.4 percent) believed that there would be a shortage of persons qualified for arbitration in the next five years. Fifty-four percent saw no present shortage of qualified persons, but only 40 percent were willing to predict that the same condition would prevail in five years. Twenty-six percent stated that they did not know if there was a present shortage of qualified persons, while 37 percent expressed no opinion on a possible shortage in the next five years.

In reporting their opinions on the shortage of acceptable arbitrators in their regions, 34 percent stated that there was presently a shortage, 32 percent stated that there was not, and 34 percent did not know. When asked to project to the next five years, 33 percent believed that there would be a shortage in their regions, 20 percent did not, and 37 percent did not know.

Considering the fact that if a sizable number of arbitrators are not having their available time fully utilized, they are unlikely to believe that any shortage of arbitrators exists; the rather high percentages expressing the belief that shortages of acceptable arbitrators do exist and will exist in the immediate future are important. In the 1969 survey a comparable question was whether the member believed that a shortage of arbitrators would exist when the "war labor board" arbitrators retired; the response was 45.4 percent, yes; 40.5 percent, no; and 14.1 percent, do not know.⁸ Given that more specific assumption, a greater percentage of the respondents could envision a shortage.

Utilization by Regions

The objective of this survey was not only to assess the availability and utilization of accepted and experienced arbitrators gener-

⁸*Id.* at 295.

ally, but also to determine how arbitration time available is being used in various geographic regions. It is recognized that arbitrators are highly mobile and that various geographic regions meet their need, in greater or lesser degrees, by importing arbitrators from other areas. However, it is believed that the extent to which arbitrator time is available in a given region and the extent to which it is being utilized is a good indicator of arbitrator supply in that region. In order to avoid any possibility of identifying individuals, the data for days of hearings and decisions rendered are reported on a regional basis for both full-time and part-time arbitrators combined.

New England, Region 1

There were 24 members residing in the New England states in 1972. Seventeen responses were received, for a return of 71 percent. Of the 17 members, three serve as full-time arbitrators, 13 as part-time arbitrators, and one is inactive. It is evident, therefore, that New England is one area that is very dependent upon part-time arbitration. Furthermore, it has the highest percentage (58 percent) among all regions of part-time arbitrators whose available time for arbitration is only 20 percent or less. It also has the third smallest average percentage of time available by part-time arbitrators (25.1 percent), and its full-time arbitrators all report busy schedules.

Despite what would appear to be strong evidence for the presence of a shortage, a number of factors indicate otherwise. Of the arbitrators willing to take on additional arbitration work, 63 percent replied in the affirmative (compared to a national average of 59 percent), and seven of the 10 willing to do so could have handled over 10 additional cases. Eight of the 13 part-time arbitrators conducted 25 or fewer days of hearings, and nine of them took on public sector fact-finding and mediation cases, with an average of 25.8 days each—one of the highest averages in the country for that type of work.

Part-time arbitrators reported having a low average portion of their time available for cases (25.1 percent), but an average of only 15.4 percent of that time was utilized—a utilization rate of 61 percent, which is considerably below the national average rate of 79 percent. Consistent with this is the fact that only two of 14 arbitrators who were listed with one or more of the appointing

agencies found it necessary to have their names removed from the active lists, both for the reason of having too heavy caseloads.

In the face of these facts it would have to be concluded that although the part-time arbitrators in New England individually do not have a high percentage of time available, the demand from the private sector for arbitration apparently is relatively light when compared to the talent available. The conclusion is that no real shortage of acceptable arbitrators is present in the New England region and that, in fact, a surplus situation exists.

This, however, is not the opinion of the New England arbitrators who, almost overwhelmingly, see both a present and a future shortage of acceptable arbitrators in the region. To the question relating to a present shortage, 11 answered in the affirmative, two in the negative, and only one stated that he did not know. As to a possible shortage in five years, nine stated that there would be one, three answered in the negative, and three did not know.

New York City, Region 2

The New York City region encompasses the Greater New York City area and northern New Jersey. It is the largest of the Academy's regions with a membership of 59. Twenty-nine responses were received, making this return somewhat under the national rate of return but still a representative one. This region had the largest number of full-time arbitrators responding, with 13 members in that category reporting. Fourteen of the respondents were part-time arbitrators, and two reported themselves as being inactive in labor arbitration work in 1972.

Part-time arbitrators in New York City have the third largest amount of time available for arbitration (34.6 percent) when compared with their counterparts in all other regions. Utilization was at an average of 31.9 percent of available time, resulting in a very high utilization rate of 92 percent.

New York City arbitrators also were the busiest in the country, having had an average of 83 days of hearings conducted per arbitrator in 1972, well above the national average of 52 days. Thirteen out of the 27 members reporting conducted 76 or more days of hearings. Only one arbitrator had fewer than 10 days of hearings, and only four had fewer than 25 days. When the average of 84.6 decisions issued in this region is compared with a

national average of 54, the result indicates that the New York City arbitrators had the second highest output among all regions.

Despite this very large arbitration workload, this same group was heavily engaged in public sector fact-finding and mediation. Nineteen of the 27 arbitrators engaged in such activities for an average of 24.6 days.

This heavy workload is further reflected in the fact that 12 of 26 members responding stated that they would not have taken on additional cases had they been forthcoming. At the same time, however, only three of the 27 who were listed with one or more of the appointing agencies had their names removed from the active list during the year. Two of them did so because their workloads were too heavy.

When the workloads carried by New York City arbitrators in both arbitration and public sector mediation and fact-finding is taken into consideration, the conclusion would have to be made that the available time of New York arbitrators is being very fully utilized. The evidence indicates a very real shortage of acceptable and experienced arbitrators in this region.

This conclusion is supported only in part by the opinions of the membership in the region. Although only a few see any shortage of persons qualified for arbitration in the region both at present and over the next five years, 11 (41 percent) were of the opinion that an immediate shortage of acceptable arbitrators existed, 10 (37 percent) answered in the negative, and six (22 percent) stated that they did not know. Nine were of the opinion that there would be a shortage in the next five years, eight replied in the negative, and 10 stated that they did not know.

Eastern Pennsylvania, Region 3

The eastern Pennsylvania region, with a membership of 29, encompasses the eastern part of the state and southern New Jersey. The 15 responses received from members in this region constituted a return somewhat under the national rate, but still a reasonably representative one. Of these returns, five were from full-time arbitrators, nine were from part-time arbitrators, and one was from an inactive member.

The part-time arbitrators reported that they had 38.6 percent

of their time available for arbitration, the highest percentage available among all regions. The 14 arbitrators reporting averaged 67 days of hearings and issued an average of 50.4 decisions each. Four arbitrators conducted 76 or more days of hearings, and four issued 76 or more decisions. Three arbitrators conducted fewer than 25 days of hearings.

The average number of days of hearings conducted by Philadelphia part-time arbitrators was 36.1, above the national average of 32.5 days. In terms of time available by the part-time group as related to time utilized, six reported utilization of less time than they had available. The average percentage of utilization was 22.1 compared with 32.6 percent time available. Thus, the eastern Pennsylvania arbitrators had only 68 percent of their available time utilized, compared with the 79-percent rate for all part-time arbitrators.

Eight of the 14 respondents expressed a willingness to have taken additional cases had they been forthcoming. Only one wanted 10 or fewer days, while seven would have taken 11 or more. Only five of the 14 did any public sector mediation and fact-finding, with 10.8 days the average for such work. All 14 respondents from this region were on the active lists of one or more appointing agency, and only three had had their names removed at any time during the year.

On the basis of these facts, the conclusion is drawn that some Philadelphia arbitrators are being very fully utilized. However, there is not full utilization of those working on a part-time basis. In part, this might be explained by the fact that a great many arbitrators from other areas work in this geographic region, resulting, perhaps, in a high degree of selectivity available to the parties and a lesser degree of utilization of the part-time arbitrators located in the region. At any rate, the evidence does not support a conclusion that there is any real shortage of experienced and acceptable arbitrators. Instead, a surplus of acceptable and experienced arbitrator time is available.

The responses of members were mixed with respect to opinions on a shortage of arbitrators. As to a present shortage of persons qualified for arbitration, only two answered in the affirmative, while six stated no, and five did not know. On the other hand, five saw a shortage of qualified persons in the next five

years, with only two indicating a negative opinion. In terms of acceptable arbitrators, four saw a present shortage, two said no, and seven did not know. Five foresee a shortage over the next five years, only one does not, and seven do not know.

Washington, D. C., Region 4

The Washington, D. C., region encompasses the Greater Washington metropolitan area. Returns from this region were received from 10 full-time arbitrators, two part-time arbitrators, and one inactive member out of a total membership of 27. This region is third largest in the number of full-time arbitrators reporting. However, only two part-time arbitrators responded, both reporting full utilization of the time they had available for arbitration in 1972.

The active arbitrators conducted an average of 65 days of hearings each. Of the 12, only four had more than 75 days of hearings, and five conducted fewer than 50 days. However, in terms of decisions rendered, the average for this region was 94.1, the highest among all regions. Ten arbitrators reported issuing 50 or more decisions. Also, it should be noted that only six of these arbitrators stated that they would have taken on additional cases had they been forthcoming; five indicated that they could have handled 10 or more. Four members had their names removed from the active lists of the appointing agencies in 1972.

Despite the very large presence of the Federal Government and the growth of public employment problems, only five of the 12 members reported any work as a fact-finder or mediator. The average number of days devoted to these activities was 18.8, with one member having between 46 and 60 days and four having 15 days or less.

The Washington region is unique in that at least eight Academy members residing there are engaged full time in governmental activities or activities other than labor arbitration. As well as can be determined, none of the active arbitrators who reported fell into this category. Also, there is not a heavy demand for the services of labor arbitrators in the region, which means that most Washington arbitrators rely on getting cases outside the region. In view of the relatively low rate of utilization of the full-time arbitrators in this region, it appears that no critical shortage of experienced arbitrators prevails. There is, however, reasonably

good usage of a Washington arbitrator's time. This conclusion is consistent with the opinions of the membership reporting from that region; they saw no present or future shortages.

The Southeast, Region 5

Returns from the Southeast were substantially below the national average in that only 14 were received from a membership of 34, for a 41 percent return. On the basis of these returns it is evident that this region is mainly dependent upon part-time arbitrators, as only three of the 14 reporting designated themselves as full-time arbitrators.

The average percentage of time available for arbitration reported by the part-time arbitrators was 32.3, somewhat higher than the national average of 30.8 percent. Actually, only 26.4 percent of the part-time arbitrators' available time was utilized, a utilization rate of 82 percent, which is somewhat better than the 79 percent national average. However, four part-time arbitrators reported less time used than they had available.

While utilization of available time is quite favorable, the average number of days of hearings conducted by all arbitrators was 51.2, compared to a national average of 52.1 days. Six of the 14 arbitrators conducted 50 or more days of hearings; one had more than 110 days. Decisions rendered by these arbitrators averaged 41.1, compared to a national average of 54.1. Only four reported issuing 50 or more decisions.

Public employment activity by the members from this region was minimal; only one member reported having 12 days of fact-finding or mediation. Eight of the 14 respondents indicated that they would have taken on additional cases; all of them stated that they could have handled more than 10. Only three of the 14 asked to have their names removed from the active lists of the appointing agencies during the year.

Because of the relatively low rate of return from this region, it is difficult to assess utilization accurately. It is clear that the region has a very low level of activity in public sector work, but among those reporting, the utilization of part-time arbitrators was more favorable than the national average. Also, only four of the 11 part-time arbitrators reported utilization less than the time they had available. However, the lower than average numbers of

days of hearings and decisions issued indicates considerably less utilization of the full-time arbitrators. There is, therefore, no evidence of a critical shortage, but the supply factor would have to be classified as being definitely on the tight side where part-time availability is the more dominant form of arbitration time available and it is being used at a rate of 82 percent of availability. The opinions of respondents from this region reflect this analysis of the market. Of those expressing opinions on the shortage of acceptable arbitrators, five saw present and future shortages; six saw no present shortage and only four did not believe there would be a future shortage.

Western New York, Region 6

Returns from the western New York region were very good, with responses from 10 of the 14 members residing in that region. Only two reported arbitration as a full-time activity; seven serve part time and one is inactive. This region is another one that is quite heavily dependent on part-time arbitrators. These part-time arbitrators had an average of 22.1 percent of their time available for arbitration, the second lowest percentage among the regions. Only one member stated that he had as much as 50 percent of his time available for this work; five had under 20 percent, and one had between 21 and 40 percent. However, utilization of this available time was at the low level of 16.4 percent, a utilization rate of 74 percent, which is under the national average. Four of seven members reported less utilization than time available.

Hearing days conducted averaged out to 36.2 per arbitrator, substantially less than the national average of 52.1 days for all arbitrators and only slightly higher than the part-time average of 32.7 days. This figure was the third lowest among all regions. Only two arbitrators reported having 50 or more days of hearings, while five conducted 25 or fewer during the year. Decisions issued also averaged substantially fewer than the national average—33.5 compared with 54.1, which made it the second lowest among all regions. Again, only two arbitrators issued 50 or more awards during the year. At the same time, however, only five of the nine active arbitrators indicated that they would have taken additional cases. Five did participate in public sector fact-finding and mediation, with an average for each of 27.6 days in this work.

Like the Philadelphia area, this is one where many arbitrations are handled by arbitrators from other regions. On the basis of data relating to availability and utilization, there appears to be definite underutilization of arbitrators, and the region would have to be viewed as moderately easy in terms of supply, a rating consistent with the opinions reported. Only three respondents saw any present or future shortage of acceptable arbitrators.

Canada, Region 7

The Academy has 11 members in Canada, nine of whom responded to the questionnaire. Three designated themselves as inactive, two as full-time arbitrators, and four as acting part time. The part-time arbitrators had 27.5 percent of their time available, but of this time only 17.5 percent was utilized, for a 64-percent utilization rate, substantially below the average for the other regions. Three of the four part-time arbitrators reported less utilization than they had time available.

The average number of days of hearings conducted was 56.4; one member reported more than 110 days, and two had between 10 and 25 days. Decisions rendered averaged out to 53.4, a figure consistent with the national average. One arbitrator rendered more than 110, while another made fewer than 10. Four of the six stated that they would have taken on additional cases, two saying that they could have handled 10 or fewer and two between 11 and 20. Two reported activity in public sector fact-finding and mediation for an average of 29 days each.

Although this rate of utilization does not indicate any serious shortage of available arbitration time in Canada, three of seven members expressed the opinion that there is both a present and a future shortage of acceptable arbitrators in Canada.

Western Pennsylvania, Region 8

In 1972 there were 17 members in the western Pennsylvania region. Of this number, four are associated almost exclusively with the United States Steel-United Steelworkers of America umpire system. Nine replies were received, four respondents designating their arbitration activity as full time and five as part time.

Part-time availability, however, was relatively high, with 32 percent given as the average amount of time available. Utilization

averaged 26 percent, for a utilization rate of 81 percent of available time. Furthermore, only two persons reported having less time utilized than was available. The average number of days of hearings conducted was 50, which is slightly under the national average. Only one person reported more than 110 days, while three others conducted between 50 and 75 days of hearings. Decisions rendered were in line with days of hearing—an average of 50.6 for each arbitrator.

Six of the nine members reported that they would have taken on additional cases had they been forthcoming; five of them were ready to handle between 11 and 20 more cases. Only one member reported doing any public sector mediating and fact-finding, and that was for eight days. Of the eight who were listed with appointing agencies, only two requested removal of their names from the active panels during the year.

On the basis of data received, it would appear that the utilization of arbitrator time available in this region has been reasonably good and is about consistent with the national utilization rate. Only one member sees a current shortage of acceptable arbitrators in the region, while three see a shortage in the next five years.

Ohio, Region 9

The returns from Ohio were below the national average in that 13 replies were received from 27 arbitrators in that state who were carried as Academy members in 1972. Of the 13 responding, six were full-time arbitrators and seven worked part time. The part-time arbitrators reported an average percentage of time available of 31.4 and utilization of 26.4 percent for a rather high 84-percent rate of utilization of time available. Only three reported less than full utilization of available time. Average days of hearings conducted by all reporting arbitrators was 60, which ranks Ohio fourth among the 16 regions. Eight of the 13 arbitrators reported holding 50 or more days of hearings. Decisions issued averaged 59.2, placing Ohio third among the regions; five members issued more than 75 decisions in 1972.

Five of 12 respondents stated that they would not have handled more cases had they been forthcoming. Seven stated that they would have accepted additional cases; four of the seven would have taken up to 20 more cases. Three of the nine arbitrators

who were listed with an appointing agency had their names removed from the active panels in 1972, all for the reason that their caseloads were too heavy. Also, only three of the Ohio arbitrators had public sector mediation and fact-finding assignments for an average of 7.3 days each.

Although the rate of return from this region was low, it is reasonably representative. It is apparent that the arbitrators who reported are busy and, overall, their services are being quite fully utilized. While no clear evidence of substantial shortages exists, it would appear that the supply of arbitrator time in this region is very close to being fully utilized, which would make Ohio an area of short supply. However, only three of 12 members reporting were of the opinion that there was any present or future shortage of acceptable arbitrators in the area.

Michigan, Region 10

The return from the Michigan region was 19 out of a 1972 Academy membership of 32, or 59 percent. Of those reporting, eight were full-time arbitrators, 10 were part-time, and one was inactive. The region, with 33 percent, was the fourth highest among the regions for average available time for arbitration by part-time arbitrators. The utilization of this time also was very high—an average of 31.5 percent, or a rate of utilization of 95.5 percent. Equally as indicative of full utilization was the fact that only two of 10 members reporting did not have their available time fully utilized.

Arbitrators in Michigan averaged 60.5 days of hearings, the third highest number among all regions. One third of those reporting conducted over 76 days of hearings in 1972, and only one had fewer than 10 days. Decisions issued averaged 58.8, placing Michigan fourth in that category among all regions. Seven arbitrators issued more than 76 decisions each, while only two issued fewer than 10. Also, half of the Michigan arbitrators participated in public sector mediation and fact-finding for an average of 10.4 days each.

Despite what would have to be classified on the average as a fairly heavy arbitration caseload, 11 arbitrators, or 61 percent, stated that they would have taken on additional cases had they been forthcoming. Six of those so responding were full-time arbitrators. Of the 18 active arbitrators responding, 14 were listed

with one or more appointing agencies, and during 1972 seven of the 14 had their names removed from the active panels. Four had to do so because of heavy caseloads, while three gave other reasons.

On the basis of these data, there is no question that acceptable and experienced arbitrators in the Michigan region are very busy, and the region ranks next to New York City in terms of overall use of arbitrators. In view of the rather large number of the reporting arbitrators not even listed with the appointing agencies for ad hoc cases, the fact that half of those who were listed had to have their names dropped from the active roles, and the very small number of part-time arbitrators who did not have their available time utilized, the Michigan region would have to be characterized as one of very short supply of experienced, acceptable arbitrators. This judgment must be made despite the fact that only four arbitrators from the region were of the opinion that there was any present shortage and only three foresaw any future shortage.

Illinois, Region 11

The Illinois region encompasses that state plus Indiana, Iowa, and Minnesota; there were 27 members in the region in 1972. Twenty-four responses were received, for an excellent return of 89 percent. Twelve of the respondents are classified as full-time arbitrators, making this region second to Washington, D. C., in percentage of persons engaged in arbitration as a full-time profession. Of the remainder reporting, 11 work part time and one is inactive.

The average number of days of hearings conducted by all arbitrators was 55.2, compared to the national average of 52.1 days. Six reported over 76 days of hearings, and five had between 50 and 75 days. However, on the basis of reports received from the full-time arbitrators, their average for the year was 73.5 days, which is substantially less than the national average for that category. Despite the fact that there are some very busy full-time arbitrators in the Illinois region, there are a number whose services are not fully utilized; seven full-time arbitrators conducted 75 or fewer days of hearings. Decisions rendered by arbitrators in the region averaged 51.3, slightly below the national average of 54.1. Six members issued more than 76 decisions each, while eight issued 25 or fewer.

Part-time arbitrators, on the whole, were busier in terms of use of available time than were the full-time arbitrators. Average available time reported was 32 percent, with five of the 11 part-time arbitrators reporting having 20 percent or less time available for arbitration. Utilization of this time averaged 29 percent, which indicates a very high 90-percent utilization rate. However, five of the 11 reported less utilization than time available. Ten reported that they did some public sector fact-finding and mediation for an average number of 16.4 days.

Thirteen arbitrators reported that they would have accepted more cases had they been forthcoming. Nine stated that they would not have taken any more. Of the 13, nine would have taken more than 10 additional cases. All active arbitrators were listed with one or more of the appointing agencies. Seven had their names removed for a period of time in 1972. Five did so for the reason of heavy caseloads and two for other reasons.

The data on the Illinois region indicate that, overall, Academy members are quite busy with arbitration. Part-time arbitrators are being used to a greater extent than are the full-time arbitrators. With the latter being somewhat underutilized and with a high percentage (59 percent) of all arbitrators being able to take on additional caseloads, the conclusion would have to be reached that while the Illinois region arbitrators are busy, there is no evidence of a critical shortage of available arbitration services. The condition in this region indicates fairly full utilization of arbitrator time and some tightness in supply of total available arbitrator time.

St. Louis, Region 12

Returns were received from seven of 10 members in the St. Louis region. Three were full-time arbitrators, while four were available on a part-time basis. Part-time arbitrators reported an average of 32.5 percent of their time available for arbitration, with two having 20 percent or less time available. Utilization of this time was 26.3 percent, for a somewhat above-average rate of 81 percent. However, three of the four part-time arbitrators reported that they had more time available than was utilized.

The average number of days of hearings conducted by the St. Louis region arbitrators was 50.7 days, slightly below the national average of 52.1 days. Two conducted between 76 and 110 days of

hearings; two had between 10 and 25 days. Decisions issued averaged 37.5, substantially less than the 54.1 national average.

All of the arbitrators were listed with one or more of the appointing agencies, and most of the cases they received came from that source. Permanent umpireships or panel cases were few, with only four reporting having such work. For two of the four it represented between 1 and 15 percent, and for the other two it was between 16 and 39 percent of their total caseloads. During 1972, two arbitrators had to request the removal of their names from the active panels of one appointing agency, and they were off the list for an average of 3.5 months. However, only one request was for the reason that his caseload was too heavy. Only these two members stated that they would not have taken on additional cases even if they had been forthcoming. Four of the five who responded in the affirmative stated that they would have accepted 11 or more cases. Also, during 1972, two of the arbitrators from the St. Louis region engaged in public sector work as mediators or fact-finders, one spending 10 days and the other two days.

These facts concerning availability and utilization of the time of acceptable, experienced arbitrators in the St. Louis region indicate no particular shortage. The rate of utilization of part-time arbitration time is somewhat better than the national average, and the days of hearings conducted are consistent with that average. However, decisions issued are substantially below average, and most of the arbitrators were available for appointment. There is, therefore, no apparent shortage of available arbitrator time in this region, and there is reasonably good utilization of the time available. Two members from the region were of the opinion that both a present and a future shortage of acceptable arbitrators exist in the St. Louis region, while three did not see any present shortage and two did not foresee a future shortage.

The Southwest, Region 13

The Southwest region has members in the states of Texas, Oklahoma, Arkansas, and Arizona. Fifteen returns were received from the 22 members in those states, three from full-time arbitrators, 11 from part-time arbitrators, and one from an inactive member. Thus, it appears that the area is substantially dependent on part-time arbitrators. The 11 respondents reported an average time availability of 35.5 percent. However, three report-

ed having over 60 percent of their time available, while six had 20 percent or less. The percentage of time utilized was 26.4, for a utilization rate of 74 percent. Yet only five of the 11 part-time arbitrators reported utilization of less time than was available.

All arbitrators in this region averaged 32.7 days of hearings, which is identical with the national average for part-time arbitrators alone. It is, therefore, substantially below the average for all arbitrators, reflecting in part the greater dependence on part-time arbitrators in this region. Two of the reporting arbitrators conducted fewer than 10 days of hearings, while three had between 10 and 25 days. The average number of decisions issued was somewhat higher, 38.5; six members reported that they issued 25 or fewer decisions.

The percentage of cases resulting from permanent umpireships or panels was relatively low, six persons having had between 1 and 16 percent of their cases from that source and only one between 16 and 39 percent. The arbitrators in this region are quite heavily dependent on appointments from the appointing agencies for their ad hoc cases; 12 respondents reported those sources as responsible for 60 percent or more of cases received. Five arbitrators had to request removal of their names from one or more active panels in 1972, and they were off for an average of 7.7 months. Four of the five made the request because their workloads were too heavy. One half of the active arbitrators reported that they would have accepted additional cases had they been forthcoming; four could have handled between 11 and 20 more cases. Only two people in the entire group worked in the public sector as a mediator or fact-finder for an average of eight days each.

On the basis of the averages for this region, it would appear that no real shortage of arbitrator availability exists in the Southwest. However, in terms of arbitrators available for appointments, the picture is somewhat modified. Two of the full-time arbitrators would not have taken on any more cases in 1972 even if they had been forthcoming. The part-time availability average was a high 35.5 percent, but three arbitrators had over 60 percent of their time available. Only half of the active arbitrators would have accepted additional cases had they been forthcoming. Therefore, although there is no shortage of available arbitration time in this region, about one half of those practicing are receiv-

ing all the work they wish to handle, while the other half are available for some additional work. This result obviously limits the extent of selection available to the parties, and it would appear to indicate some shortage of acceptable and experienced arbitrators in the area.

The conclusion is consistent with the opinions of the reporting arbitrators with respect to the presence of a shortage in the region. Five arbitrators see a present shortage of acceptable arbitrators, while four do not. Four see a future shortage, while four do not. Other respondents indicated that they did not know.

Rocky Mountain, Region 14

The Rocky Mountain region includes members who reside in the states of Colorado, Washington, and Oregon. Returns were received from six of the 10 members in those states. There are no full-time arbitrators in the region, and three of the six part-time arbitrators had only 20 percent or less of their time available for arbitration. The average percentage of time available was 26, and the average time utilized was 20 percent—a utilization rate of 77 percent. Three respondents reported less utilization than time available.

These arbitrators averaged 38 days of hearings each and issued an average of 37.2 decisions. Both figures were more than the national averages of 32.7 days and 31.7 decisions. Five stated that they would have taken additional cases had they been forthcoming. All were listed with one or more of the appointing agencies, and only one requested removal of his name from the active list in 1972. He was off for the relatively short period of three months, and his reason for removal was for other than a heavy caseload. Three of the six worked for an average of 8.7 days in the public sector as a mediator or fact-finder.

Although the region has a relatively small membership made up entirely of part-time arbitrators, the time that these arbitrators have available and the extent to which they are being utilized would seem to indicate that no shortage of acceptable and experienced arbitrator time exists in this region. However, the facts that days of hearings conducted and decisions rendered are above the national averages for part-time arbitrators and that only three reported less than maximum utilization of time available are evidence of reasonably good utilization of available arbi-

tration time. In view of what is apparently a light demand for labor arbitration, the supply appears to be adequate. Only two of those reporting were of the opinion that there was both a present and a future shortage of acceptable arbitrators.

Northern California, Region 15

Nine returns were received from the northern California region, with an Academy membership of 12. Three responses were from full-time arbitrators, four were from part-time arbitrators, and two were from members who were not active in arbitration in 1972. The part-time arbitrators reported the lowest percentage of available arbitrator time, 15 percent, among all regions; three of the four had 20 percent or less time available. Utilization of this time averaged 13.8 percent, for a very high utilization rate of 92 percent. However, three of the four also reported that they had not filled their available time.

The average number of days of hearings conducted by all arbitrators reporting was 49.3; three arbitrators reported 50 or more days and two had under 10. The 49.3 figure places the northern California region somewhat under the national average. Decisions issued averaged 44.7, with three members issuing 50 or more during the year. This number, too, is below the national average of 54.1 for all arbitrators.

Six of the seven active arbitrators reporting were listed as available with one or more of the appointing agencies. One set restrictions on the use of his name by asking to be removed from the southern California panels. Another restricted use to the western states plus Alaska and Hawaii. During the year one asked to have his name removed from the active list, and he was off for a period of 10 months. Five did work as public sector mediators or fact-finders, four averaging 11.7 days on these assignments. The fifth reported that he spent "too many" days as a member of a board of inquiry for a longshore dispute. Only three of the seven active arbitrators stated that they would have taken more cases had they been forthcoming. Two restricted themselves to 10 or fewer additional cases, and one would have taken more than 20.

The supply picture in this region is rather interesting. In terms of stated time available for arbitration and the extent to which it is being utilized, it would seem that there is a very severe short-

age of arbitrator time available in this region. All but two of the part-time arbitrators would not have taken additional cases had they been forthcoming, and only one full-time arbitrator stated that he was available for additional cases.

However, it is interesting to note that of the six arbitrators listed on the active panels, only one found it necessary to have his name removed for a time from the active list, and his reason was not because his caseload was too heavy. This is an area that uses arbitrators from other regions, particularly from southern California. Therefore, despite the very low percentage of available time among the part-time arbitrators and their resulting high utilization rate, the conclusion is that no really critical shortage of arbitrator time exists in the northern California region. However, available arbitration time would have to be classified as in tight supply in the region.

Southern California, Region 16

The southern California region includes Hawaii, and in 1972 there were 21 members located in California and three in Hawaii. Sixteen responses were received from southern California and two from Hawaii—a good return from this region. Of those reporting, four are full-time arbitrators, 13 work part time, and one is not active.

Thirteen part-time arbitrators reported that they had an average of 31.5 percent of their time available for arbitration, somewhat above the national average. However, seven had 20 percent or less of their time available, while two had 50 percent and two had more than 60 percent. The average utilization of this time was 20.8 percent, for a utilization rate of 66 percent, substantially below the 79-percent average for all regions. Eight of the 13 reported utilization of less time than they had available.

All southern California region arbitrators averaged 32.4 days of hearings; only three reported 50 or more days. This figure is less than the national average for part-time arbitrators only (32.7 days). Decisions issued for all arbitrators (30.1) also averaged less than the part-time average for all regions (31.7).

Of the 17 active arbitrators, nine stated that they would have handled more cases had they been forthcoming; almost all so reporting were part-time arbitrators. Four stated that they would

have taken 10 or fewer, while another four said they could have handled between 11 and 20 more.

Most arbitrators in the southern California region are dependent on ad hoc cases. Only one part-time arbitrator reported that he received 100 percent of his cases from a permanent appointment. Eight stated that 100 percent of their cases were ad hoc. The remaining eight received 39 percent or less of their cases from permanent appointments.

Fifteen members were listed with one or more appointing agencies during 1972. Only two of them placed restrictions on the use of their names—one to California only and the other to local area appointments only. During the year only one arbitrator requested removal of his name from the active panel, and he remained off for a period of 10 months. The reason for his request was that his caseload was too heavy.

Of the 18 arbitrators reporting, 10 worked as public sector mediators or fact-finders in 1972. Nine of the 10 worked an average of 15.7 days each; the 10th did not report the number of days worked. Two had between 26 and 45 days, and the remainder had 20 or fewer days in that work.

On the basis of these data, a number of conclusions can be drawn with respect to the availability of arbitrator time in the southern California region. Hearing days conducted and decisions issued are substantially below national averages. In fact, they are the lowest among all regions. At the same time, the average amount of time available for arbitration is in line with that of most other regions, but part-time arbitrators have one of the lower rates of utilization. Furthermore, the region has more part-time arbitrators reporting less utilization of available time than does any other region. Nearly all of the arbitrators were available for selection for ad hoc cases through the appointing agencies, and they remained available throughout the year. Only in public sector mediating and fact-finding was the southern California group more active than arbitrators in other regions with the exception of New York City.

On the basis of the above analysis, the conclusion must be that there is no shortage of acceptable and experienced arbitrator time in the southern California region. The supply situation in that region is substantially better than in the country as a whole,

and a surplus condition is clearly indicated. It is interesting to note that this finding is not consistent with the opinions of the individual arbitrators in the region with respect to the supply of acceptable arbitrators. Seven of them were of the opinion that there was a present shortage in the region, while only four did not believe so. Six foresaw a shortage in the next five years, while five did not.

Conclusions

From analysis of the data gathered in this study, the conclusion to be reached with respect to the overall availability and utilization of acceptable and experienced arbitrator time is that no critical shortage exists. What is present is evidence that arbitrators are finding reasonably good utilization of their time available for such work. As in other professions where the users may select the individuals, some Academy members are busier than others. Overall, it appears that about half of the members have all the arbitration work they can handle or wish to handle, while the other half of them range from being fairly busy to having a great deal of available time.

In general, full-time arbitrators are quite busy, but even in this group approximately half can be classified as very busy, while the other half ranges from those who are fairly busy to the approximately 10 percent who utilize about one third of their time.

Available time of part-time arbitrators is also being fairly well utilized, but again we find that approximately half of the part-time people are getting all the work they can handle adequately, while the other half could take on an additional workload.

On a regional basis, real and almost critical shortages of available, acceptable, and experienced arbitration time clearly prevail in the New York City and Michigan regions. Some tightness in the supply of available time can be found in Ohio, the Southeast, Illinois, the Southwest, and northern California. Regions with no shortages but with reasonably good utilization of available time are Washington, D. C., western New York, western Pennsylvania, St. Louis, and Rocky Mountain. Regions where a clear surplus of available arbitration time exists are New England, eastern Pennsylvania, Canada, and southern California.

It should be noted that this study was based solely on informa-

tion provided by those who constitute the major portion of experienced and acceptable arbitrators. An attempt was made to elicit specific and objective data upon which to base an analysis of the extent of available arbitrator time and the degree of utilization of such time. The study did not treat that area of supply composed of those persons who engaged in arbitration work but who, for various reasons, have not become members of the Academy. A study including the latter group obviously would be of considerable value, and data for such a study may be available through the American Arbitration Association and the Federal Mediation and Conciliation Service.

Nor has the study sought to treat the views of users of arbitration services with respect to availability and utilization. Such a study would necessarily have to be separate, and it would be considerably more difficult to do than the one reported here. For one thing, it is frequently hard to determine from interviews with users whether or not the claimed shortage is one that arises because of the inability of the person to obtain the services of particular arbitrators. Any survey must encompass those who are willing to accept the services of qualified persons even though those persons may have a lesser reputation for experience and acceptability.

In addition, Professor John Shearer of Oklahoma State University contends that a study of availability must encompass several other areas relating to the views of the users.⁹ He proposes six factors which should be tested in such a survey:

“(1) rapidity and quality of panels furnished by the agencies, (2) rapidity of appointment by agencies after selection of arbitrator, (3) speed of contact by arbitrator, (4) number, variety and nearness of dates offered by arbitrators, (5) extent of efforts of arbitrators to reduce costs through discouraging briefs, etc., (6) time lapses until receipt of arbitrators' awards.”

Obviously, many of these factors are beyond the question of availability of acceptable arbitrator time, and they encompass procedural aspects of the whole arbitration process. Furthermore, some, such as the variety and nearness of dates, clearly relate to how busy the particular arbitrator being contacted may be and the willingness of the parties themselves to await his availability

⁹Letter dated Apr. 13, 1973, from John C. Shearer. His views were endorsed by Professor Harold Davey in a communication dated May 4, 1973.

or to accept his limited selection of dates. No matter what the supply of experienced arbitration time available may become, there will always be some arbitrators whose services are in such demand that there will be delays and difficulties associated with getting cases heard by them.

This study relates to only one facet of the problems of arbitration. It is hoped that it will serve to stimulate other in-depth studies of topics relating to supply, for the ultimate end of having evidence upon which to draw conclusions in this area of arbitration availability and utilization rather than attempting to draw conclusions based upon individual opinions and horror stories.

QUESTIONNAIRE ON AVAILABILITY OF ARBITRATORS AND SURVEY STATISTICS

1. In what region are you located? (refer to page 9, Membership Directory 1972-73, for list of regions) (227 responses)

2. In 1972 were you doing labor arbitration on a (Please check)

Full-time basis?	81
Part-time basis?	131
Not active in arbitration	15
	227

56.8% return

<i>Region No.</i>	<i>Full-Time</i>	<i>Part-Time</i>	<i>Not Active</i>
1	3	13	1
2	13	14	2
3	5	9	1
4	10	2	1
5	3	11	—
6	2	7	1
7	2	4	3
8	4	5	—
9	6	7	—
10	8	10	1
11	12	11	1
12	3	4	—
13	3	11	1
14	—	6	—
15	3	4	2
16	4	13	1
<hr/>			
Total number	81	131	15
Percent of total	35.7	57.7	6.6

3. If part-time, what percent of your time was available for arbitration? (Do not include mediation or fact-finding.) (127 responses)

Region No.	20% or under	21-40%	50%	51-60%	Over 60%	Average % Available
1	7	2	3	—	—	25.1
2	4	4	3	2	—	34.6
3	1	3	4	—	—	38.6
4	1	—	1	—	—	30
5	3	4	4	—	—	32.3
6	5	1	1	—	—	22.1
7	1	3	—	—	—	27.5
8	1	3	1	—	—	32
9	3	2	—	2	—	31.4
10	3	3	4	—	—	33
11	5	2	1	—	3	32
12	2	1	1	—	—	32.5
13	6	2	—	—	3	35.5
14	3	1	—	1	—	26
15	3	1	—	—	—	15
16	7	2	2	—	2	31.5
Total number	55	34	25	5	8	
Percent of total	43.3	26.8	19.7	3.9	6.3	30.8

3a. If part-time, what percent of your time was actually devoted to arbitration? (126 responses)

Region No.	Under 20%	21-45%	50%	51-60%	Over 60%	No. Reporting Less Util. Than Time Available	Average Percent
1	8	4	—	—	—	5	15.4
2	4	7	—	2	—	7	31.9
3	4	3	1	—	—	6	22.1
4	1	—	1	—	—	—	30
5	6	3	2	—	—	4	26.4
6	6	1	—	—	—	4	16.4
7	3	1	—	—	—	3	17.5
8	2	3	—	—	—	2	26
9	3	2	—	1	—	3	26.4
10	3	3	4	—	—	2	31.5
11	5	3	2	—	1	5	29
12	2	1	1	—	—	3	26.3
13	7	2	—	1	1	5	26.4
14	3	1	1	—	—	3	20
15	4	—	—	—	—	3	13.8
16	9	3	—	—	1	8	20.8
Total number	70	37	12	4	3	63	
Percent of total	55.5	29.4	9.5	3.2	2.4	50	24.2

4. How many days of arbitration hearings did you conduct in 1972 (permanent and ad hoc)? (208 responses)

Part-time average	32.7 days
Full-time average	82.8 days
Average all respondents	52.1 days

Full-Time, All Regions

	<i>Number</i>	<i>Percent</i>
Under 35	8	10
35-59	14	17.5
60-75	18	22.5
76-99	9	11.3
100-125	17	21.3
Over 126	14	17.5

Part-Time, All Regions

	<i>Number</i>	<i>Percent</i>
Under 10	16	12.5
10-25	45	35.2
26-45	30	23.4
46-75	27	21.1
76-99	7	5.5
Over 100	3	2.3

Days of Arbitration Hearings Conducted by
Regions, Full-Time and Part-Time

<i>Region No.</i>	<i>Under 10</i>	<i>10-25</i>	<i>26-49</i>	<i>50-75</i>	<i>76-110</i>	<i>Over 110</i>	<i>Average No. Days</i>
1	2	6	2	3	1	2	44.5
2	1	3	3	7	5	8	83
3	1	2	4	3	1	3	67
4	—	1	4	3	3	1	65
5	—	3	5	4	1	1	51.2
6	1	4	2	1	—	1	36.2
7	—	2	2	1	—	1	56.4
8	—	3	2	3	—	1	50
9	—	4	1	5	3	—	60
10	1	3	4	4	5	1	60.5
11	1	5	5	5	3	3	55.2
12	—	2	2	1	2	—	50.7
13	2	3	4	2	2	—	32.7
14	—	2	1	2	—	—	38
15	2	2	—	1	1	1	49.3
16	3	5	5	1	2	—	32.4
Total number	14	50	46	46	29	23	55
Percent of total	6.7	24	22	22	13.9	11.1	100

4a. How many decisions did you issue in 1972? (206 responses)

Part-time average	31.7 decisions
Full-time average	90.1 decisions
Average all respondents	54.1 decisions

Full-Time, All Regions

	<i>Number</i>	<i>Percent</i>
Under 35	11	14.1
35-59	13	16.7
60-75	12	15.4
76-99	12	15.4
100-125	20	25.6
Over 126	10	12.8

Part-Time, All Regions

	<i>Number</i>	<i>Percent</i>
Under 10	22	17.2
10-25	45	35.2
26-45	28	21.9
46-75	24	18.6
76 and over	9	7.0

Decisions Issued by Regions, Full-Time and Part-Time

<i>Region No.</i>	<i>Under 10</i>	<i>10-25</i>	<i>26-49</i>	<i>50-75</i>	<i>76-110</i>	<i>Over 110</i>	<i>Average No. Decisions</i>
1	2	5	4	2	1	2	42.3
2	1	3	5	6	5	6	84.6
3	1	4	4	2	2	1	50.4
4	—	1	1	6	1	3	94.1
5	1	4	5	2	2	—	41.1
6	1	3	2	1	1	—	33.5
7	1	1	3	—	—	1	53.4
8	—	2	3	2	2	—	50.6
9	—	3	3	2	4	1	59.2
10	2	4	2	3	5	2	58.8
11	3	5	3	6	5	1	51.3
12	—	4	1	2	—	—	37.5
13	3	3	4	2	—	2	38.5
14	—	3	—	1	—	—	37.2
15	2	1	1	1	1	1	44.7
16	4	6	2	2	—	1	30.1
Total number	21	52	43	40	29	21	52.5
Percent of total	10.2	25.2	21	19.4	14.1	10.2	100

5. In 1972 would you have handled more cases had they been forthcoming?
(207 responses)

Yes	121	58.4%	No	86	41.5%
Full-time	43	36%			
Part-time	78	64%			

Region No.	Yes	No
1	10	5
2	14	12
3	8	6
4	6	6
5	8	6
6	5	4
7	4	2
8	6	3
9	7	5
10	11	7
11	13	9
12	5	2
13	7	6
14	5	1
15	3	4
16	9	8

Total number	121	86
Percent of total	58.5	41.5

5a. If Yes, how many more? (119 responses)

	Under 10	Up to 20	Over 20
Full-time	7	17	19
Part-time	28	31	17
Total	35 (29.4%)	48 (40.3%)	36 (30.3%)

Region No.	10 or Under	11-20	Over 20
1	3	4	3
2	2	4	6
3	1	3	4
4	1	3	2
5	—	3	5
6	3	1	1
7	2	2	—
8	—	5	1
9	3	4	—
10	4	3	4
11	4	6	3
12	1	3	1
13	2	4	1
14	2	1	2
15	2	—	1
16	4	4	1

Total number	34	50	35
Percent of total	28.6	42	29.4

6. In 1972 what percent of your cases resulted from

Permanent umpireship or permanent panel? 24.6%

Ad hoc appointments? 75.4%

(207 responses)

Region No.	Permanent Appointments						100% Ad Hoc
	100%	80-99%	60-79%	40-59%	16-39%	1-15%	
1	—	1	—	1	6	3	4
2	1	2	3	4	6	6	5
3	—	—	2	1	1	3	6
4	2	1	—	3	1	1	2
5	—	1	—	3	2	2	6
6	1	—	—	2	—	1	5
7	1	—	1	1	1	—	2
8	1	1	—	2	1	1	3
9	—	1	2	1	1	3	4
10	1	2	—	2	4	6	3
11	—	—	1	1	4	9	5
12	—	—	—	—	2	2	3
13	—	—	1	—	1	6	6
14	—	—	—	—	2	1	2
15	1	—	—	1	1	1	3
16	1	—	—	—	4	4	8
Total number	9	9	10	22	37	49	67
Percent of total	4.4	4.4	4.9	10.7	19	23.9	32.7

7. Of your ad hoc appointments in 1972, what percentage came

From an appointing agency? 55.1%

Directly from the parties? 42.5%

From other sources? 2.5%

(203 responses)

Region No.	Appointing Agency						
	100%	80-99%	60-79%	40-59%	20-39%	1-19%	0%
1	1	3	3	4	2	—	2
2	2	8	6	3	4	—	2
3	1	6	2	4	—	—	1
4	2	2	4	3	—	—	1
5	—	6	1	4	1	1	1
6	—	1	3	3	1	—	1
7	—	—	—	2	1	—	2
8	1	2	2	2	1	—	1
9	—	—	5	4	1	1	1
10	2	2	6	2	1	1	4
11	1	3	5	8	2	2	1
12	—	1	5	1	—	—	—
13	1	5	6	2	—	—	—
14	—	1	1	—	1	2	—
15	—	—	1	1	2	—	2
16	1	5	1	2	3	2	2
Total number	12	45	51	45	20	9	21
Percent of total	5.9	22.2	25	22.2	9.8	4.4	10.3

ARBITRATION OF INTEREST DISPUTES

Region No.	Appointment by the Parties						
	100%	80-99%	60-79%	40-59%	20-39%	1-19%	0%
1	2	2	—	5	5	—	1
2	2	1	3	6	4	7	2
3	—	1	2	3	5	2	1
4	1	—	—	4	5	—	2
5	1	1	2	3	4	3	—
6	—	—	2	3	2	2	—
7	2	—	2	1	—	—	—
8	1	—	1	3	2	1	1
9	1	1	1	5	4	—	—
10	3	2	1	2	7	1	2
11	—	4	4	8	2	3	1
12	—	—	1	—	5	1	—
13	—	—	—	4	6	3	1
14	—	2	1	1	—	1	—
15	1	1	2	—	1	1	—
16	2	4	2	2	3	2	1
Total number	16	19	24	50	55	27	12
Percent of total	7.8	9.3	11.8	24.5	26.9	13.7	5.9

8. During 1972 were you listed as available to take ad hoc cases with (please check) (186 responses)

	% of Responses	
AAA?	182	97.8
FMCS?	166	89.2
NMB?	57	30.6
State appointing agencies?	98	52.6
Other?	27	14.5

Region No.	State Agency				
	AAA	FMCS	NMB	State Agency	Other
1	14	11	3	7	1
2	25	21	18	23	10
3	14	11	3	9	1
4	8	9	5	2	—
5	13	14	5	6	2
6	9	8	2	8	2
7	1	—	—	—	2
8	8	7	—	6	—
9	9	9	1	—	—
10	14	13	5	12	2
11	22	18	1	11	3
12	7	7	—	1	1
13	12	14	6	—	—
14	5	5	2	—	—
15	6	6	2	4	—
16	15	13	4	9	3
Total number	182	166	57	98	27
Percent of total	97.8	89.2	30.6	52.6	14.5

8a. If your availability was subject to restriction (e.g., "to local area"), what restrictions did you place with

	<i>Numbers Placing Restrictions on Use</i>
AAA?	32
FMCS?	31
NMB?	5
State appointing agencies?	17
Other?	4

9. During 1972, other than the above-cited restriction, did you ask one or more of the appointing agencies to remove your name from the active ad hoc panel? (Please check)

186 responses Yes 37 (20%) No 149 (80%)

	<i>Region No.</i>																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	No.	%
Yes	2	3	3	1	3	1	—	1	3	5	5	2	5	1	1	1	37	20

10. If Yes, from which one or ones? (Please check) (38 responses)

AAA	25
FMCS	27
NMB	4
State appointing agency	7
Other	1

<i>Region No.</i>	<i>AAA</i>	<i>FMCS</i>	<i>NMB</i>	<i>State Agency</i>	<i>Other</i>
1	2	—	—	—	—
2	1	1	—	2	—
3	2	2	—	1	1
4	1	1	—	—	—
5	2	3	—	—	—
6	1	—	—	—	—
7	—	—	—	—	—
8	1	1	—	—	—
9	1	2	—	—	—
10	3	4	—	2	—
11	5	4	—	1	—
12	—	2	—	—	—
13	3	5	3	—	—
14	1	1	—	—	—
15	1	1	—	—	—
16	1	—	—	1	—
<hr/>					
Total number	25	27	3	7	1
Percent of total	67.6	73	8.1	18.9	2.7

11. If Yes, how many months did you remain off the active panels?

	<i>No. Off</i>	<i>Average</i>
AAA	25	6.1 months
FMCS	27	6.2 months
NMB	3	7.3 months
State appointing agency	7	6.1 months
Other	1	3.0 months

Average Number of Months Off Panels

<i>Region No.</i>	<i>Months</i>	<i>Region No.</i>	<i>Months</i>
1	5.7	9	6
2	3	10	4.4
3	5.7	11	7.5
4	6	12	3.5
5	4.2	13	7.7
6	3	14	3
7	—	15	10
8	7	16	10
Average total		5.9 months	

12. Was the reason for having your name removed from the active panel because: (Please check) (38 responses)

You had too heavy an arbitration case load
consistent with your other commitments? 29 (76%)
You had some other reason? 9 (24%)

<i>Region No.</i>	<i>Heavy Case Load</i>	<i>Other</i>
1	2	—
2	1	2
3	2	1
4	1	—
5	3	—
6	1	—
7	—	—
8	1	—
9	3	—
10	3	1
11	5	2
12	1	1
13	4	1
14	—	1
15	1	—
16	1	—
Total number	29	9
Percent of total	76.3	23.7

13. Do you believe there is presently a shortage of *qualified* arbitrators in your region? (Qualified does not necessarily mean having acceptability.) (216 responses)

Yes 42 (19.6%)		No 116 (54.2%)		Do not know 56 (26.2%)	
Region No.	Yes	No	Do Not Know		
1	6	9	1		
2	3	16	8		
3	2	6	5		
4	2	8	2		
5	3	8	3		
6	1	7	2		
7	3	4	—		
8	1	6	2		
9	—	10	2		
10	2	12	4		
11	5	8	10		
12	—	5	2		
13	5	5	5		
14	2	1	2		
15	3	3	3		
16	4	8	5		
<hr/>					
Total number	42	116	56		
Percent of total	19.6	54.2	26.2		

14. Do you believe there is presently a shortage of *acceptable* arbitrators in your region? (Acceptability is defined as receiving 5 or more cases per year.) (214 responses)

Yes 73 (34.1%)		No 69 (32.2%)		Do not know 72 (33.6%)	
Region No.	Yes	No	Do Not Know		
1	11	2	3		
2	11	10	6		
3	4	2	7		
4	3	6	3		
5	5	6	3		
6	3	3	4		
7	3	3	1		
8	1	6	2		
9	3	5	4		
10	4	8	6		
11	6	5	12		
12	2	3	2		
13	5	4	6		
14	2	1	2		
15	3	1	5		
16	7	4	6		
<hr/>					
Total number	73	69	72		
Percent of total	34.1	32.2	33.6		

15. Do you believe that in the next five years there will be a shortage of qualified arbitrators in your region? (213 responses)

Yes 52 (24.4%)		No 83 (40%)		Do not know 78 (36.6%)	
Region No.	Yes	No	Do Not Know		
1	6	6	4		
2	3	15	9		
3	5	2	6		
4	2	6	4		
5	3	5	6		
6	1	4	5		
7	3	3	1		
8	2	3	4		
9	1	5	6		
10	2	11	5		
11	8	4	11		
12	2	5	—		
13	5	3	6		
14	2	—	3		
15	4	3	2		
16	3	8	6		
<hr/>					
Total number	52	83	78		
Percent of total	24.4	40	36.6		

16. Do you believe that in the next five years there will be a shortage of acceptable arbitrators in your region? (213 responses)

Yes 70 (32.9%)		No 58 (27.2%)		Do not know 85 (39.9%)	
Region No.	Yes	No	Do Not Know		
1	9	3	4		
2	9	8	10		
3	5	1	7		
4	2	5	5		
5	5	4	5		
6	3	3	4		
7	3	2	2		
8	3	3	3		
9	3	4	5		
10	3	10	5		
11	7	3	13		
12	2	2	3		
13	4	4	6		
14	2	—	3		
15	4	1	4		
16	6	5	6		
<hr/>					
Total number	70	58	85		
Percent of total	32.9	27.2	39.9		

17. In 1972 did you work in the public sector as a private mediator or a fact-finder? (216 responses)

Region No.	Yes 90 (41.7%)		No 126 (58.3%)	
	Yes	No	Yes	No
1	9	7	18	11
2	18	11	5	9
3	5	9	5	7
4	5	7	1	11
5	1	11	5	4
6	5	4	2	7
7	2	7	1	8
8	1	8	3	9
9	3	9	9	9
10	9	9	10	12
11	10	12	2	5
12	2	5	2	13
13	2	13	3	2
14	3	2	5	4
15	5	4	10	8
16	10	8		
Total number	90	126		
Percent of total	41.7	58.3		

18. If so, how many days did you devote to that work? (17.2 days average)

Region No.	Number of Days									No. Rep.	Ave. No. Days
	Under 5	6-10	11-15	16-20	21-25	26-45	46-60	61-75	75+		
1	2	—	1	2	—	2	1	—	1	9	25.8
2	5	5	4	—	1	1	2	1	—	19	24.6
3	1	2	1	1	—	—	—	—	—	5	10.8
4	1	1	2	—	—	—	1	—	—	5	18.8
5	—	—	1	—	—	—	—	—	—	1	12
6	1	—	1	—	2	—	1	—	—	5	27.6
7	—	—	—	1	—	1	—	—	—	2	29
8	—	1	—	—	—	—	—	—	—	1	8
9	2	1	—	—	—	—	—	—	—	3	7.3
10	4	1	3	—	—	1	—	—	—	9	10.4
11	3	3	1	1	—	1	1	—	—	10	16.4
12	1	1	—	—	—	—	—	—	—	2	6
13	—	2	—	—	—	—	—	—	—	2	8
14	1	1	1	—	—	—	—	—	—	3	8.7
15	1	—	3	—	—	—	—	—	—	4	11.7
16	2	2	2	1	—	2	—	—	—	9	15.7
Total number	24	20	20	6	3	8	6	1	1	89	17.2
Pct. of total	27.0	22.3	22.3	6.7	3.4	9.0	6.7	1.1	1.1		

Regions:

1. New England
2. New York City (including northern New Jersey)
3. Eastern Pennsylvania (including southern New Jersey)
4. Washington, D.C.
5. Southeast
6. Western New York State
7. Canada
8. Western Pennsylvania
9. Ohio
10. Michigan
11. Illinois (including Indiana, Iowa, Minnesota)
12. St. Louis
13. Southwest
14. Rocky Mountain (including Oregon, Washington, Colorado)
15. Northern California
16. Southern California (including Hawaii)