

National Academy of Arbitrators
HISTORY COMMITTEE INTERVIEW

Clare B. McDermott

NAA President, 1979

Interviewed by Gladys Gruenberg

June 1, 1989

CLARE (MICKEY) McDERMOTT

PRESIDENT OF THE NATIONAL ACADEMY OF ARBITRATORS

1979 TO 1980

INTERVIEWED BY GLADYS GRUENBERG

AT

THE CHICAGO HILTON AND TOWERS, CHICAGO, ILLINOIS

JUNE 1, 1989

Gladys Gruenberg:

We are attending the 42nd Annual Meeting of the National Academy of Arbitrators at the Chicago Hilton and Towers in Chicago, Illinois. It's June 1, 1989. My name is Gladys Gruenberg and I am interviewing past President McDermott, Clare B. McDermott, also known as Mickey, who was the president during the year 1979 to 1980. This project is sponsored by the Academy History Committee in order to preserve the account of activities and the background of Academy presidents.

First, we're interested in your personal background. Do you want to tell us where you were born, -raised, educated, that kind of thing?

Clare (Mickey) McDermott:

I was born in Pittsburgh, Pennsylvania. In 1923.

Raised there and in a suburb by a maternal grandmother

and two maiden aunts, when I was five years old. Came up through catholic grade school and public high school, in the suburb of Mt. Lebanon. Quickly, I guess I should get to something beyond high school.

Well, the story of your family background, I would think in terms of, do you have any experience with unions in your family background at all?

Not at the age I'm still at, no. Before college? No. A certain feeling in the '30's, when I began to be slightly socially and politically mature, at the time was out of joint and that some such thing as the Wagner Act and the National Labor Relations Act should have come about, from seeing men coming to our back door pleading for work. I hear people talking now about how they don't want to work, well I have never run across such a person. Maybe they exist but I haven't seen them. These men were einbarrassed and some would not take the food, if there wasn't some little thing they can do, and your grass can be cut only so often. That was it.

Where did you go to college?

Went to a year at Notre Dame, before I went into the

service, in 1942. Really, before I got out of high school they had a special program and I walked my way through and got a year of schooling, of college, in before I went into the army in December of 1942.

Were you enlisted?

I was enlisted. I was drafted and enlisted in that I was born a gentleman, it didn't take an act of Congress to get me to be one, to be made one. Spent forty months in the service and came out and finished college at Duquesne University in Pittsburgh.

In what service were you?

I was in an infantry division in combat in Europe. Not much, just enough to know I'd been ?????. And so little, that when the war was over they gave us a thirty day furlough and sent us to the Philippines, to the Pacific, and we were supposed to be an assault wave on Hanchu. And the bomb dropped when we were on the boat and I naively thought they'd turn the boat around and we'd all come home. Eut it didn't work that way. Stayed in the Philippines for six months and got out in March of '46. Finished college at Duquesne in 1949.

What did you major in?

Philosophy, Minor in Psychology, thinking that, that would teach me how to live and maybe how to discern what people were doing and thinking. I don't know whether that's been successful. Then, was my first official contact with union activity. I went to work in the mill, in the steel mills, for a brick contractor. Put up blast furnaces and stoves, so when I hear a contracting out case now, I'm a little bit ashamed because that was my first time in a mill, as an employee of an outside contractor. But they didn't care then, everybody was working full out. We would work seven twelves for, I worked for him for about a year before I went to law school and you worked until your hands just wouldn't work right anymore. I think that helped. I was young and healthy and knew that this would not be my life's work. I hoped it wouldn't be my life's work. So I could keep that, we treated it almost as an athletic endeavor. They were my age and we tried to out perform each other. And it was fun but very tiring. In that activity, I was a member of
of
local, I think it's 407 International Laborers and Ho\ Carriers Union. That company, a company owned by the father of a friend of mine, they had no trouble joining the union. Then I went to law school at Pitt from '49

to '52. Not sure what this says here but it said something ???? honors was. I was on the law review and that was very good experience. Got out of law school in spring of 1952 and went for two years as law clerk to a judge on the United States Court of Appeals for the third circuit in Philadelphia. That was a competitive thing and I was proud of that. It wasn't just a matter of the prof, although I'm sure the recommendation was there, but it was competitive. I had to take a record that the court had decided but I hadn't seen the opinion" in and write one. There were, I don't know, ten or twelve other people wanting it. Finished that in 1954 and I'm going to say some things that are kind of embarrassing to me here, I thought this was a little bit of a prestigious activity and it was great fun. Marvelous court. The atmosphere and aura was the same as the Supreme Court without all the newspaper attention and publicity to it. I thought, well, when my time with the court ends, the law firms will fall all over themselves. Didn't work that way. They greeted my entrance with a great yawn. My judge would not recommend me. He said that's improper, for every other judge on the* court, perfectly ethical, honorable men were doing it right and left and their people were getting everything. He would not. Well, I'm glad he did not because I might have been

practicing law and I'm happier at what I'm doing. Just about the time, when I began to get panicky, Pitt Law School came and said do I want to teach. I always loved that kind of activity and I did it.

What year was that?

That was in 1954.

And what did you teach there?

I taught procedure and they thought that was a terrible thing to have and no one on the faculty would do it and I loved it. I always said, with some exceptions, the only difference between a layman, a businessman anyhow, and a lawyer is that the lawyer knows how to use the courts to make effective these rights. A business man probably knows more substantive law but a... for instance, if you're a junk dealer, I think you get pretty quickly to know the law of junk dealing and the lawyer doesn't. But, you tell the lawyer your problem and he can use the proper procedure, so I thought that was fun. And it was. Taught state procedure and federal procedure. Admiralty, that was another unique, that was more fun than anything. I knew nothing about it and well, I knew something about it because federal

courts have a lot of admiralty cases. I'm probably telling you more here than you need.

No, that's fine. How long did you teach?

I taught until 1960, full time.

Then, what's the next thing you did after that?

Well, in 1957, here I'm embarrassed again, I don't remember the exact date of the steel worker trilogy. Do you?

'60

Was it '60? I thought it came before that,

The case started in ...

Ok the decision, that's what I'm thinking of, 1957. Being from Pittsburgh, and a lot of steel work there the Board of Arbitration for US Steel and the steel workers began to be just swamped with work. And those parties were of the view that a legal education was... well, they took it even farther, not only helpful, but to them, essentially they insisted, that anybody

working under Syl Garrett be legally trained. We had each now, too many, very good, excellent, outstanding arbitrators who don't have law degrees but I wasn't going to suggest that to them, if they were persuaded to the contrary. So, I went with Syl Garrett, as his assistant, part time, as one of several.

How did you make the contact with him?

Herb Shannon was teaching at Pitt at the same time and Herb had worked for Syl. He brought me to a meeting and I wound up, you know, I'd get a batch of cases in April and another batch in August, but I was still at the law school. The volume of my courses began to decline and of the arbitration cases to increase and that lasted for three years as a part timer arbitrator. In 1960, I went with Syl full time. Then, sometime after that became an associate, I forget what they call that, I was the first assistant of many assistants, I guess.

So would you consider Syl Garrett your mentor?

Oh, mentor, everything. Just a, I think it was the best apprenticeship in the universe. You might think that about Father Brown, others would think that about

other people and I guess that's quite natural and you should. But, the interesting thing about that relationship, Gladys, was that Syl never gave me the impression that you were working for him. It was always with him. He treated you with total respect and it wasn't a gopher status that you held. Whatever the problem, you'd come to him for a sympathetic ear.

"It's in good hands. Go decide it." And shortly I caught on that he wasn't going to decide it for me. Now, if I had a draft and had it decided to my satisfaction, he had to approve it, so. He would very rarely just turn it around. I'm not sure he ever did that.

How did your caseload increase then?

You see, Gladys, it didn't. Boom! 1960.

Jumped right in.

Yes. I was doing nothing but that and nothing but US Steel cases for several years, there. But, it became, whatever, I don't know, ten or twelve cases a month, for good. So, I saw some of the questions about increasing or decreasing, it never did. It just immediately went to more than I could handle and I'm

not famous as the fastest gun in the East or West. And it's been that way since I started to do this.

Syl's office supplied your secretarial help, or, what did you do about that?

The Board of Arbitration had a separate quarters of its own and for a while it was Syl and myself. And then it became Syl and Dave Altruck and Peter Flore. And then, shortly after that, one or more of them left and Al Dybeck came in. I forget what year, '65, I think. Then, in '68, Ed McDaniel came. So, at one time, there were four of us. Never more than four, while I was there. In the early time, my early time, it was Syl and myself.

He had to approve your decisions.

He did, under the contract ????, but his approval was, and I want to get into this when we come to Academy admission, because there was a certain feeling that it... I was a one industry person, totally. Well, I had a few cases but not enough to talk about. But people didn't understand, I would defend the view, that the steel industry, has demanded and gotten the best quality of arbitration, of any industry I know.

Airline, whatever else you can think of. They simply, they prepared excellently, they had a decent system. It wasn't too legalistic, by any means, but it was thorough. You got prehearing briefs, then. Well, I think they still do, at the Board, but the prehearing briefs then, were four, five, six pages. Now they're half a page and it says little else than "We ought to win." Everybody accepts it pro forma, as a brief, but it really doesn't brief anything.

Kind of a statement of the issue.

Well, sometimes not even that. But in those days, they were really... and depending, on the personality of the individual who put the case in, there were some company people who were so thorough, and some union, you could absolutely rely on their statement of what their evidence would show. Now, sometimes it would get weakened, by something in testimony. But they did an excellent job in the care and preparation and argument of the cases.

What was your week like, in that situation?

A week at home, would be just living in the suburb, seven miles south of, the same one I've lived in all my

life. Coming to work, working on a case, the way everybody does it, excepting, maybe, five or six travel days a month. And that took you from Worcester, Mass to Boston, Philadelphia, Cleveland, all Pittsburgh areas but this suite of offices had a major hearing room, with caucus rooms off each side for the parties. So, if the case came from a plant around here, they came there. Cleveland, you'd go, sometimes they'd come. Birmingham, Chicago, a lot of work in Chicago, Wakeegan, Duluth, Minnesota, Salt Lake City, ?????, Provo Utah, San Francisco and Los Angeles. And when there were four of us at the Board, we always competed for that San Francisco, Los Angeles sweep because you'd throw in some cases at Provo, Utah, as well. It always fixes out. Whatever order you did these in, you'd have to stay over the weekend because there was too many days. You were in San Francisco for the weekend. And nobody was angry about that. I mean the parties said "We understand, if we did it we'd do it that way too." You'd go, in the early years, the Board had an administrative officer who had worked with Syl on the War Labor Board, in Philadelphia, as administrative officer. She scheduled, docketed, kept all the records. She had a secretary of her own but she was also the stenotype operator and would come on these trips with you. So, she'd come to Chicago, the ????? or

the Blackstone is where we'd stay, or California. And only later, did they begin having, retaining a local court reporter. And every case had a transcript then. This lasted until I left the board in 1974. That was every case. Oh, I shouldn't say every, maybe they began, I guess it was just about then they began to consider the costs of the transcripts and in some cases you had to scribble.

How many hearings did you have? • About five hearings a month, then, is that what you're saying?

Well, you have about five or six hearing days but those people were tires, Gladys. They had none of this case A today and case B tomorrow. They would either come to the board or you'd go to them in a hotel and they'd have six or eight cases prepared and they'd just trot'em by. You might hear, there were days in Philadelphia, out at Ferris Works, where I'd hear five cases. They didn't fool around. One case over, ship that crew out and bring a new crew in.

Rarely, did a case go more than one day, any individual case.

You're right. It was infrequent but there were some that would four, five, ten, major incentive cases.

Contract issues,, that kind of thing.

Right, sure.

Would you say, that there were many of them, or a majority of them were discharge cases or discipline cases?

No. I wouldn't say a majority. Discipline was a sizeable minority. No, not then. They picked up in later years. They ran the whole gamut of the table of contents of a typical agreement. Before I leave this, one thing, the, particularly the Birmingham people, they loved to get Pittsburgh trips, so we didn't go down there, as often as they all came up to Pittsburgh. They wanted to come up, so they did. And they'd live it up for three or four days. They were fun people and, so, I began following behind them and it's just about been that way ever since. The parties have been quite charitable about that, with me, lucky. Where are we?

...as to your membership in the National Academy, I assume then that you were recommended by Syl Garrett to join the Academy?

Yes. I started arbitrating in '57 and I was admitted in '61, with ninety some percent of the cases, in US

Steel. Almost all of them in the steel industry. And there had been fusses about this. And I'm sure that Syl had something to do with easing the fuss. Harry Platt was not happy with it and said so. And yet, he and Syl were the closest friends, absolutely. They shared, I'll bet, for the next twenty annual meetings

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they were share space, if these wives didn't come, and sometimes when they did. They'd get a suite and they'd half it. Harry thought that wasn't right but somehow he got pacified, I don't know. I wasn't in on the consideration but I was admitted in 1961.

And with reference to your caseload, about how many cases a year, in terms of our requirements now, how did they compare?

I tried to say how they were tough cases and they were, in my judgment, equal to any number of cases outside. I mean, it wasn't like railroad cases or coal cases, they were by God cases that stood on their own and got that kind of treatment. It's true, Syl had to approve it because the contract said so, but he'd read it and, after it was there for a time, he would approve it. That was it. I was the,, the outside people always thought, "Well, your stuff is approved by Garrett." And it was, at least formally. But it was, at best, a pro forma approval and I'm not sure what the numbers

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would have been. I would say sixty or seventy right away. And pretty soon, some years got higher, and I'd fall farther behind and I'd do a burst of stuff. I'd plead off a few turns. I would plead, when my turn would come for another batch of cases, "Let me skip this one." We all did it sometimes and you'd try to catch up.

After you joined the Academy, what kinds of committee assignments did you start having? Do you remember?

Yeah, I think so. I was on some kind of Guest Policy Committee and none of which were particularly active in those days. As I look back on it, I think it was the personality of the chairman. And you know, the guests, they just existed then. In the '70's, when I was on the Membership Committee, that was the first really hard working, and it is. I should know.

Were you chair of the Membership Committee.

No, I was not. Lou Gill, Jim Hill, Rolf Valtin were on it, I think one of them was and I don't recall now who that was. I don't think, even then, the consideration was as detailed as it is now. But there was a lot of work.

How do you think the attitude in terms of acceptance of members has changed, since the time you were on the Membership Committee?

I think it's probably tougher now, than it was then. That's rather a visceral reaction. I'm not sure I can justify it intellectually but I think it is.

Do you feel that there's any justification in some of the beliefs, that some people have, that all you had to do is be a friend of somebody who was an influential member of the Academy, to get in, without having very much of a caseload?

I'd say no to that but the friend helped with me. I had a horrendous caseload but if they wanted to say "One industry is not enough." I was in trouble. And Syl, probably, got me over that hurdle. I wasn't pushing it that much. I wasn't, my love affair with the Academy hadn't begun yet. I was relaxed about this. So who cares whether I'm a member or not. It didn't have any effect on my caseload. I could be quite, I could rise above it. I wasn't trying to get work. My trouble was I had too much.

Did you really want to join the Academy?

Well, I wanted to because everybody seemed to think I

should. I didn't know enough about it. I had gone, I think, sixty meetings in Santa Monica, California. I think sixty one was in Chicago, when I was admitted. I don't remember having any intense desire to be a member, before, I guess, fyl gave a paper in '60 at Santa Monica. I did not go to that meeting. I came to Chicago. I don't think I was a member then. I think I got admitted later. I forget how that occurred.

Additional committee assignments then, what other committees were you on?

Well, I got to be close, very close friends with Dave Miller, who was secretary, even before he became secretary, and then he began to desire to get out from under being secretary and I didn't have enough intelligence to see that I was being set up, in that regard. It wasn't, not for a minute, that I thought they had such great respect for my administrative skills, because they're nonexistent. I worked at an institution that had space and the rent was paid and equipment and all kinds of secretarial help. By then there were three or four secretarial type people there who did all this work. Dave Miller gave the pitch to Syl and Syl and I went to the parties and they said "Oh my God. The man's behind now. Why should we agree to

this?" But they did. So I became secretary in '65.

And what was done about the transfer of the records, then?

Dave and I were very closet personal friends and I would drive, my wife and I would drive, to Detroit, and load up the car. We'd stay with them for a weekend or something and drive back with some stuff. And he'd come down and load his car. And the cars looked like bootleggers, they rode with the rear end low because they were filled with papers and, you know, very few things are heavier than a whole lot of paper. It was rather... and I'm not sure I got everything yet. I think I did. Well, see, I only took one term and then Al became secretary, so that I didn't transfer any...

Everything stayed in the same office.

Exactly. I'm glad I was. That was valuable experience. You certainly learn about the Academy. You learn a lot of things, some of which I'll talk about later. This recent thing that I was in with, on the new members and the interns, I think that is so valuable a change in our attitude because these people know more about the Academy after one day than a lot of our members do, right now, who haven't been through

that. Every committee is explained in detail, I didn't know what half of those things were. The Academy is much more forthcoming about treating the new member as worthwhile. It was "Ok kid, you got in, now sink or swim." I can remember peering between potted ferns looking at Ralph Seward, Mr. Seward. I never would think of him as Ralph. I think it's done much better now.

Did you have other official positions in the organization, that is, like the Board of Governors, vice president?

Oh, I had, that's right, I had, I really don't know why, I had gone through several of those before, I guess I'd gone through the track before becoming secretary.

That's before you became secretary?

Yes. There's probably not enough years for that to be true, I know I held a, I was on a board before that. I don't remember about vice president, that probably came later.

After you joined, you attended just about every annual meeting?

I missed the first Puerto Rico meeting in, whatever that was, that was in the early '70's or late '60's. I missed the Seattle meeting, not long ago, because I had just had a bypass operation and was just beginning to get feeling well. I think. I came to every one but two, since then.

Do you think that's important in terms of the way you feel about the Academy?

Oh, of course. I get quite impatient with those who complain about the dictatorial, autocratic power structure clique and all such things because if you really try, I think, it's not hard to break into the thing. Now, you've got to start low and slow but the work is done, I guess this is true of any organization, I have belonged to Bar Associations and American Association AP, and the work is done by about a fourth of the, or maybe a fifth of the members. What do we have here? Considerably fewer than half of our members are in attendance at this meeting. I don't have much sympathy for those who come to one out of every so often and complain about the way things are done. Well, I do also because they're fun. Now, I have been here in this meeting for the past week, in a southern suburb of Chicago, so I'm coming up on two weeks away

from home. I'm ready to leave now. But that's unusual. The crowds are beginning to get on me a little bit. As senility approaches, I get less patient with those big mobs and noise.

But then, you don't think the membership in the Academy affected your caseload, in any way?

I don't think it did because it had already gone higher than I could stand.

And you were through with law school and you weren't teaching anymore, after you...

I stopped teaching in 1960. The reason I say about the caseload is that it was still Board of Arbitration caseload. And I stayed with this until 1974. That was too long. I should not have stayed that long. It was such an attractive arrangement. What we do is private and lonely. If you're traveling, you're by yourself. My wife rarely comes with me, every once in a while. I don't go to that many jazzy places. A week in Boomer, West Virginia goes a long way, she might once and never go back. So, it's lonely. With the board, you didn't have that loneliness, at least when you were at home. There were three people to talk to, almost everyday.

So, it was a highly attractive atmosphere in which to learn how to do this. And, I don't know anybody who's better, well, Syl's a believer and "There's the case. Go hear it and decide it. Whatever difficulty it is, I think you're capable of doing it." And pretty soon, you begin to believe that yourself. But, that attitude that I mentioned before, it wasn't, you never thought you were an employee or inferior, never. And he knows an awful lot about labor relations. There's a personality way about him. I heard somebody who said that his enthusiasm for him was well under control but he said "I'll grant him this, he tell's you to go to hell and you look forward to the trip." That's the first time I had heard that common saying. I had been in meetings with him in which I thought "This is going down the drain. I'm going to run for the door." And he'll sit there smiling and people are saying atrocious, biological things to him. And pretty soon it all dissipates and he gets what he wants. It's incredible. I don't know how he does it.

In your situation, did you have any kind of mediation activity, at all? As a...

No, except, as, I suppose we all do it, when you hear a set of facts that you know very well, the parties are

missing the boat. They're, not talking about the same thing and if it were forced on their attention, there might be a settlement in the offing and you'd suggest it and they'd do it. Not often. I would say two or three cases out of a hundred because they were reasonably well prepared.

Getting back to the Academy, as far as your election to the president elect office...

Well, before we get to that, I want to... If I may?

Yes, by all means.

I then began hearing outside cases. I guess in the mid '60's. Not many, but some. And that helped.

You mean, while you were on that board?

Yes, I was still an employee of that board.

Did you have to get their permission to do that?

I did. I did. Right. They gave it but I think they would have been happier if I were totally caught up and that never was the case.. I never heard very many. Ten

or twelve a year.

Did you get on any other permanent panels after that?

Not while I was still with the board, no. I have, although I'm not sure it's a permanent panel, the Glass Bottle Blowers had a rotating list of people and I was on that while I was still at the board. But nothing, in the sense of sole , permanent, no. Ok, I interrupted you when you were...

No, that's fine. So now getting*...

I was regional chairman.

Were you the first regional chairman in your region?

No, no.

So, the region had been set up long before that?

It didn't have many people in it though. I think we have twenty something or pushing thirty something now. Well, it's a little bit expanding, geographically now. It runs all the way from Harrisburg and we get one or two or three from West Virginia, which wasn't the case

then. But it was, I must say, I was not a particularly active regional chair because nobody else before me had been. And to this day, it's difficult, unless a good deal of planning is done, which the regional person has to do himself. We're getting more substantive subjects to be discussed and formal programs now, which we didn't have then. To the extent, there was a, would be, regional meeting would be dinner and booze.

More of a social type of meeting.

Right, at which everybody would want to talk about nothing but fees and how you charge and how you collect and all that stuff. Which I thought, was quite unscenely, but in those days, I had the luxury of a permanent check coming in, permanent salary.

Do you want to take a little break here.

Yeah, lets.

The National Labor Policy? I don't know. I think it's much the same. The attitude toward the place of unions in American society sure has changed. With our fearless leader of, unhappy memory.

The 1982 ...

Yes, exactly.

Particularly, with reference to the steel industry, since you have a lot of experience in that, do you want to talk about that?

Yeah, I do. But I didn't want to put that on National Labor Policy, that's economic issues. It changed very radically.

How did it affect arbitration?

Fewer cases, I think. Clearly, different kinds of cases. When it first began to hit, in my personal experience, that's all I can speak of, I guess companies caught on before the employees did that jobs are going to be scarcer than they were. And there were some employees still engaging in the kinds of conduct that might jeopardize their employment, thinking "Who cares. I'll go next door and get another job." They're still doing rather reckless things in discharge cases, on my dockets at least, increased immensely. Companies simply weren't patting up with it. The people hadn't yet caught on that "If I lose this one, the chances of getting another are not going to be so

easy now." When that second piece of recognition came, almost no discharge cases in my docket because the people knew and they kept their nose clean. So, I think it had that effect. Discharge cases and discipline cases dropped off. They had gone like this and then they came down. Kinds of cases? Managements became an awful lot more cost conscious and were cutting crews and reducing the force and contracting out work. So, that crew reduction problem and contracting out increased. An example of the importance of that is shown by the 1986 steel industry wage settlements or contract settlements, in which US Steel took a six month strike, to try to avoid having it. But they took contracting out language, which is very much tougher than it used to be. I thought that was unusual, in a time just shortly after and for some companies still a matter, of the higher economic conditions. The union was able to get extremely restricted contracting out language. In the old days under the, they had... until '63, the steel agreement said nothing about contracting out and you had to use the arguments about the recognition clause and all that stuff, everything was implied. Well, in '63 they got an experimental agreement which talked about the matter. And said the parties recognize it as a problem in their relationships and commit themselves to this or

that. In both before '63 and after, there's a strong past practice clause in the basic steel agreements. Local working conditions is what it was called and the union would rely on that a lot. But the way that had been construed was, if the event took place a hundred times and it went fifty fifty, there's no practice of contracting out or not. You got management who can do about what it wants, because it did. And you didn't ????. The union, to prevail in that kind of case had to show a pretty darn routine situation of no contracting out. And if there were some different arbitrators, and I had some too, I'm sure, the number of fugitive errant exceptions might destroy the practice. So the union would lose those cases. With the language that came '86, the company would lose those cases because now the company has to prove, with some exceptions, that it was the practice to contract out and that even if they had that, that it was the more reasonable course in this set of facts. So they have to prove two things. And it's not "or" it's both. I mean, they don't have to prove they practice, or more reasonable, they have to prove that the practice was to contract it out and that's it's more reasonable. So, they lose those cases now, where there's a few errant fugitive incidences. So, they got turned around. That I think was very significant.

How do you think that came about that management agreed to that kind of provision?

Well, the other companies ??? was one of the first. I'm not sure. US Steel said, I had talked to any number of them, say "If it had been left to me they'd still be out." before they'd take that language, but it wasn't, they took...

So, it was in settlement of the strike.

Yeah, well for them. Nobody else had that, everybody else caved in. US Steel said no and took a strike. Everybody captured a lot of their customers and they just decided they're bleeding all over the floor, I suppose. Although, they had by then gone into considerable oil and energy business and not just steel.

Did they have pretty much the same contracts even though...

Just about, just about. Some of them, it's identical. Some of the arbitration stuff, whether it can be cited as a precedent or not, some say yes some say no. Each party, at one time or another, wants to do it. They might squawk in this case, but tomorrow they'll be

doing the same, as you know. In some it's expedited, too. That was the company's, and it's sensible. They used to, the company would have the work done by contractor and pay ten million dollars and two years later come to arbitration and the arbitrator would say "You shouldn't have done that." Now, they have to pay the people who would have done the work. Now, you're supposed to go to arbitration and have it finished before the work is done, at all. So at least, it is that, to that extent, more efficient. In some contracts you got two days to decide the case, it can be a lot of complication, in others it's five days. In none, is it so long that you get any kind of leisurely study of the record. You got to be thinking all the way through, "Well, probably I'm going to sustain or deny this thing." You don't have any, and I send them a telegram now, follow it up with a longer opinion, if they want me to. Maybe one or two sentence, it's not an analysis, I've done the analysis and written it up. I just don't publish it.

In addition to caseload, to general caseload, is there any other effect that it has had on arbitration, change in arbitration? What about the...

What, what's "it" has had?

The change in economic conditions and that sort of thing. Has it had any effect on the, or I should say, a change in the environment generally? Has there been any effect on the procedure of arbitration itself, that you've seen a change occurring there?

Not in my work, Gladys. No, I don't think so.

It pretty much remained the same there.

Yeah, yeah.

You don't feel it's getting more legalistic or anything like that, than it was before?

No. Well, it might be with some parties but they are not ones... Oh, some o'f the ad hoc people, I hear a few ad hoc cases a year, yeah. They are, that's a jungle out there. The permanent work is so luxurious, relaxed, well, I shouldn't say relaxed because it's difficult. But those people, that I've been fortunate enough to work with, in any kind of permanent relationship, strike me and always have, as being sincerely interested in seeing this as a problem in their continuing to be a productive enterprise, and want to solve it. Whereas, many of the ad hoc people I

get with, It's just a training ground for mean lawyers. And I'm serious. I am anti-lawyer in arbitration now. Good ones, who know, they're a pleasure to listen to. You can just relax. They don't make the case any easier to decide because they do it well. But they're not that screaming and shouting and motions and objections and well... I'll state an example. Ad hoc case in Pennsylvania in which two people were, had been discharged for theft, attempted theft, because they had a stake out and the stake out people moved too soon. Nothing got stolen. They went ahead and they, there was a problem of identifying brass ingots, that were suspiciously near a fence, that didn't get taken but they were saying, and they thought they could prove that these two guys were outside the fence in a dark unlighted car and all that. Well, they had to identify these ingots. I don't know for what reason that was important now, and they had a woman employee, who'd been there for thirty five years, and she kept these records. There was an outside counsel, that the company got to represent it. He took her over one of the roughest cross examinations I've known in a long time. And yet, I couldn't say, I couldn't stop him. It was legitimate cross examination. It doesn't always have to be kid gloves. Well, the company's case kind of fell apart for other reasons and I sustained the

grievance, but that's not the basis of this story. You know, when a hearing ends, and I think this took two days, I'm folding up papers and do I have company exhibits one two and three in order and the union exhibits and all that stuff, and the parties were generally out of the room before I am, so I was at a motel, but this woman and her friend, another woman employee, were going, it took them a while to gather up their wits too and get out. I'm walking out the door behind them and I don't think the witness woman knew I was still there and she said "Well, if that S.O.B. and that company thinks I'd lie about this case, just wait and see what they're going to get now." And I thought it was pretty clear she was saying she was devastated by that. She was terribly upset, having worked for them for thirty five years, this guy had made her out to be a liar. He didn't care. He'd never see her again, never cared about them at all. If they'd had somebody there who knew the relationship, I don't think they would have conducted that kind of cross examination. He was, well, I put it to you to be that kind of thing. I think that was a bad mistake, which wouldn't be made by people who are in the bin, that I first described, who are really trying to solve their problems. And I don't mean that they're giving the shop away, by any means, but they're doing it with a kind of decency that

is entirely different from what I often see in ad hoc things, where there's a hammer and tongs. Don't understand, they don't understand that they have to go back tomorrow and make sneirks or whatever the hell it is they make. I think it's a mistake for them to get that way. So, it has, the economics I don't think has hurt, or has changed the procedural attitude that most of my people go about with, no. Some ad hoc'ers, I guess yes.

Is there anything else that you would like to add, about the Academy or any anecdotal stuff that you think people ought to know about?

I don't think so. It wouldn't be anything other than anecdotal. I just want to say, that of the professional associations I have belonged to, I have a genuine love affair with this Academy, that I have never felt with any bar association or AAUP outfits. I'm not sure I can explain it myself.

Do you think the caliber of the new people coming in is as good as the old timers?

I have to be careful here. I think the caliber, as a matter of professional competence, is probably as good.

I am concerned about the tendency to be used car salesmen. I think that, probably has increased a little and that's purely personal, prejudice. I don't report to have done any scientific study of the matter or anything like that. It's just a feeling I have, that we are getting more people, who are in this to make big bucks. And, I think, that inevitably will hurt the way they perform.

Do you think that might have an influence on the way in which they look upon the code, generally?

Yes. I think it does. I think they're much too willing to grasp and... Mickey McDermot's arbitrator pencil, you know. I heard about some guy who has pencils that he has named. I don't know that he was a new member. I think that California situation might have been a relatively new member. All cases, all courts, passing out cards. I don't know. I probably shouldn't have said some of this because it is purely personal prejudice. I have a few cases in mind but I can't, I wouldn't want to state them because it's hunch as much as anything.

Well, Ok.

Well, thank you Gladys.

Thank you.