

National Academy of Arbitrators
HISTORY COMMITTEE INTERVIEW

Gabriel N. Alexander

NAA President, 1961

Interviewed by Robert Williams

June 2, 1989

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President, National Academy of Arbitrators
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Robert G. Williams: We are attending the 42nd Annual Meeting of the National Academy of Arbitrators at the Chicago Hilton and Towers in Chicago, Illinois. It is Friday, June 2, 1989. My name is Robert G. Williams. I am interviewing Gabriel N. Alexander, who was President of the Academy in 1961. The project is sponsored by the Academy's History Committee in order to preserve the account of activities and the background of Academy Presidents.

First, Gabe, we are interested in your personal background. Where were you born, raised, educated, etc.?

Gabriel N. Alexander: I was born in Detroit in 1910. My father was an attorney, and I went through Detroit grade schools and high schools. I graduated high school in June, 1926. I was sixteen years old the first of March. I went to Wayne University for three semesters; it was then the Colleges of the City of Detroit. I transferred to the University of Michigan in the second semester of my sophomore year, and I graduated in 1930. I entered Harvard Law School in the fall of 1930, stayed there one year, went back to the University of Michigan and graduated from the Law School there in 1933, and I went into practice with my father. I was an in-and-out law student. I never made Law Review; some courses I hit A's; others I hit D's. I flunked one in my freshman year at Harvard and made it up without difficulty in Ann Arbor. When I graduated in '33, the factories were closed. Detroit was at the bottom of the depression. My father, as I say, was a poor man's lawyer. I joined him in Detroit, lived at home with my folks, and worked in his law office for fifteen dollars a week.

I met my wife while I was in law school, and we had a courtship that continued from '33, on and off, till '36. Beatrice Joshel was born and raised in Geneva, Illinois, and graduated from the University of Michigan Literary College in 1933. So, we were both out of school three years in '36, when we married. Then, she came to Detroit. We both worked, and I practiced law. We got into the war years. I had two younger brothers, both of whom were in service. Our first daughter, Molly, was born April 27, 1941, which made me a pre-Pearl Harbor father and kept me out of the draft. I had two younger brothers in service: one was a flight surgeon, and the other was a bomber pilot. I was feeling some sense of obligation to get into the conflict but I had a child, and my wife and parents dissuaded me without too much difficulty, so I went into the war plants. I got a job as an outside vendor-inspector for the Glen L. Martin Company, because I had some mechanical abilities. I was stationed in and around Detroit. I continued that from about 1942 until maybe about late '43 or '44, when the War effort cut back, and Glen L. Martin let me go.

At that point, I was talked to be the Vice Chairman of the Detroit Regional War Labor Board, Louis Mirriani, who said to me, "We can use you on the War Labor Board with your factory experience and your legal experience." So, I started to work as a Disputes Panel Chairman from time to time, and then I was asked to work on a WAE (When Actually Employed) basis as a Hearing Officer in the Automotive Section of the Board. That was sometime in '42 or '43, I think. At that point, I was thirty-three or thirty-four years old, while the staff of the Automotive Section consisted of young people, barely out of college, with Ph.D. degrees. None of them had trial experience. By that time, from '33 to '43, I had ten or eleven years of office and trial experience as an attorney. I conducted hearings involving the Big Three automobile companies and became known to the labor relations people on both sides of the table.

I want to make it clear that while I was working in the war plants, I was also in the law office. I would go to the office in the morning, and I was working the afternoon shift, 3 to midnight, at Vickers, Inc., who made hydraulic aircraft parts. Later, I was stationed at Buhl Stamping Company. Also, I went around the state. I took days off and went around the state with my foreman. As I say, I had some mechanical ability, and I had amazing access to the top level management people and also the hourly rated people at many plants, and I gained factory experience first hand at that time. So that when I was hearing cases as a Hearing Officer in the Automotive Section, and I went through plants, there were a number of instances in which the parties were impressed by the fact that although I was an attorney, I was aware of factory practices. I could read blueprints, and I knew tooling, the tooling limits and tolerances, and things of that kind.

Now when the War Labor Board closed out, I think it was late '44 or '45, I began to get some arbitration work -- a few arbitration cases on my own. Some of them were through the Board's appointment, and some of them came voluntarily. But then I received a call one day from Ralph Seward, who was the permanent umpire for General Motors Corporation and the Autoworkers. Ralph had issued a decision on the maintenance of membership clause, which in the contract said withdrawals from union membership had to be sent "registered mail, return receipt requested." A lot of withdrawals had come in and had been received by the Company and the Union, but not in that form. Seward had interpreted the contract to mean that any -- that there had to be strict compliance with the text of the contract as to method of mailing. There were some four hundred disputed withdrawal of membership cases pending around the country, and Ralph needed an assistant to go out and hear those cases. They hired me. General Motors and the UAW, as I say, knew me from experience at the Automotive Section. I went to work and heard those four hundred cases and, with Ralph's counseling and supervision, disposed of the disputes.

Then Ralph was leaving General Motors and going to United States Steel. We are now talking about 1946 and '47, and he had overlapping responsibilities. The point being that I worked with him, not merely on these specialized dues deduction cases, but on grievance -- full grievance disputes and full arbitration cases under the General Motors/UAW contract. Ralph was very helpful, and I suppose if we had the terms "mentor" and "intern" in those days, that would be reasonably applicable. We weren't

using those terms at all. He was just very helpful to me, and I ghost wrote a good many - about ten or fifteen -- of Ralph's last opinions before he finally left General Motors and went to U.S. Steel. That was in the Fall of 1947.

I aspired to, you know I was young and ambitious, and I aspired to do more. By that time I was getting independent arbitration work, both for General Motors and the Electrical Workers in the Delco and Frigidaire plants down in Dayton. I was going to Dayton on my own, and I was asked to become the permanent arbitrator of some company in Detroit -- I forget the name of the company.

The dramatic aspect of my early career was that when Ralph left, GM and UAW employed Saul Wallen, effective January of 1948. Wallen did not care to use me. I was hoping to be an assistant to him, because the case load at General Motors was relatively high. They were running approximately one hundred cases a year, I think. But Wallen preferred to go his own way and did not use me at all, and I was on my own. Unfortunately for Saul and fortunately for me, his tenure as Umpire at General Motors lasted from January to August of 1948. He was unceremoniously discharged in a dramatic situation that gained a lot of attention in the Fall of '48. As far as my own career is concerned, the upshot was that General Motors and the UAW agreed that I would be the next Umpire. They notified me by a telephone call on the election day when Harry Truman surprisingly beat Tom Dewey -- that was election day 1948.

An interesting aspect of that situation with respect to my membership in the Academy is that I was with Ralph, working as his assistant at the time, when those original organizing meetings were being held as recited in the video tape they did on the Academy organization. So those meetings in '47 and the First Annual Meeting in '48 were going on at a time when I was close to Ralph Seward, who became the first President. I asked Ralph if I could join the Academy, and he kindly but firmly said, "Well, I am sorry but membership was by invitation only." So I was not a charter member of the Academy, although I was aware the Academy was being formed, and certainly I was ambitious and eager and wanted to be a charter member. At any rate, the story -- I mentioned this to Gladys the other day, and she smiled because it is kind of funny and reflective of my own aggressiveness or eagerness, I suppose, at age thirty-five. When I was appointed General Motors Umpire on Election Day of '48, there was a meeting scheduled in Philadelphia by George Taylor at the Wharton School. It was a labor-management assembly meeting, and I was invited to go down there on short notice. At some point, during a recess, a question arose about my joining the Academy. I was feeling my oats, and I said, "Look, I wanted to join and you wouldn't have me, and now that I am the General Motors Umpire, if you want me to join, you re going to have to invite me." Ralph, who was sitting by, said, "Okay, I am inviting you." I said, "Okay, I am applying." So that was how I got into the Academy. *Business Week* had a spread about my appointment, saying that Alexander, "a newcomer to the field," was made the General Motors' Umpire, and that was true.

About my caseload: I did not have any caseload as General Motors/UAW forbade me from hearing disputes by other parties. I was under a full-time contract and had an office

and a secretary provided there. So, I didn't have any case load experience before I was admitted to the Academy, and I was fortunate. I managed to survive that Umpireship for about five and one-half years, and that is another story as to how I did there.

In the meantime, I became active in the National academy. You know I was close to Ralph, who was my friend and mentor. I went to the Annual Meeting in 1949 and to every one during my tenure at General Motors. I attended regularly and started getting committee appointments. I was on the Ethics Committee. The regional activities at that time were practically nil. There was no such thing, as I remember, as regional groups. But I was friendly with and helped by a number of the original founding members. They asked me to serve as Secretary, and I was Secretary for three or four years. I am not exactly sure when, but the Academy records show that. I think it is fair to say, I was being groomed, if that is not exactly the word, I was being looked at as a possible presidential candidate. Certainly by David Cole, who told me in so many words. He was the second, no, he was the third President, I think. I would put on the record here, if no one else has, because I was discussing it with Bill Simkin yesterday, that there was a great rivalry for the Presidency of the Academy -- at the end of Ralph Seward's year and a half or two years -- between David L. Cole of Paterson, New Jersey, and David Wolff of Detroit. It was a head-to-head battle there, and the Nominating Committee didn't want to elect either of them -- didn't want to choose one over the other. The nomination went to Bill Simkin, and Bill and I were discussing this the other day, and he was the compromise candidate. He became the second President. Then in subsequent years, David Cole and David Wolff did go in, and I think Cole preceded Wolff. I think Cole was the third and Wolff of Detroit was the fourth President. Dave Cole said to me, as I remember, "We would like you to be Secretary." Al Colby had been the original Secretary, and then the job had been handed over to Carl Schedler, a friend of his. Both of these men were based in Washington. I took over responsibilities of the Secretary's position and had it for three or four years, and I am not sure exactly when. I was hoping to become President at the time they elected Harry Platt. Harry Platt was an arbitrator in Detroit and was older than I was, and he was also active in the Academy. He is dead these many years now, and I was out of countenance when Harry Platt was elected before I was. But in due course I became the thirteenth President. Those were my contributions to the Academy. I forget what other committees I may have been on. I really remember Ethics Committee, because I was very much interested in that. I was a Vice President. You know, I went from Secretary to Vice President through the chairs and then elected President. I was nominated and elected promptly as was everybody in those years. The Nominating Committee, I think, only met at the national meetings, and you did not know six months in advance that you were going to be President. At the meeting in Santa Monica, I was told that was being nominated.

Williams: In 1961, what were the duties of the President? What was your general function?

Alexander: Well, you appointed committees and presided over the meetings of the Board of Governors. You monitored the work while the Board of Governors met three or four times a year at that time. There was more than the Mid-Year Meeting they have

now, and all of us traveled at our own expense. I had no problem in '61; I forget where I was with respect to my career. I had been terminated from the General Motors position in 1954 or 55.

Williams: Can you remember what committees you had to appoint at that time, and who your committee chairmen were -- or not?

Alexander: I cannot. I have no recollection as to who was on what. I know that the people who were active at that time were Father Brown, who was the immediate Past President, I think. The upcoming people were Ronald Haughton who, I think, took the Secretary's job, and Bert Luskin, who came up after I did. But I don't have any present recollection of who, and I don't have any present recollection of any of the Board meetings. I have vivid recollection of some aspects of the Annual Meeting in Pittsburgh, which was in '62, I guess.

Williams: How did your nomination as President of the Academy affect your caseload, if it affected it at all?

Alexander: Well, I was not doing much, relatively speaking, *ad hoc* arbitration. I was engaged full-time; I never went back to the law practice. I had opened my own office, but I received a number of other umpire appointments. I was arbitrator for Swift and Company and all three of the packing house unions. Of course, I was arbitrator for International Harvester some time in those years. I had been helping Ralph as an associate arbitrator at Bethlehem Steel after I left General Motors. By '61 or so, I may have had Jones and Laughlin Steel. Most of my career has been as a more or less permanent arbitrator so that my caseload did not increase or decrease. I was able to keep up with it while I was President, and it did not interfere.

I was then being offered many opportunities to write and to speak. I was participating in Wayne State University sessions, labor-management seminars that were held from time to time, and I was doing some part-time teaching. By '61 I am pretty sure I was teaching a labor arbitration course at the extension school, the University of Michigan Business School, and also in the Wayne University Law School. I was ninety-five percent a full-time practicing arbitrator holding major appointments as permanent arbitrator and doing some teaching. As a matter of fact, I had aspired to get on a faculty. I did not have good credentials to get on college faculties, and I was not able to get a job. This was in '54, '55 when I was through with the General Motors' job.

Williams: When you were President, what were the major goals of the Academy, and what were your major problems, if any, that you can recall?

Alexander: Well, there were two things, and I jotted them down. One was that by that time the problem of not knowing in advance that you are going to become the President or being nominated was acute. It was during my term as President that we amended the Constitution to provide for the office of President-Elect, and that was accomplished at the Annual meeting in Pittsburgh. Ben Aaron, who was my immediate successor, was

nominated and elected in Pittsburgh in 1962, and at the same meeting, Sylvester Garrett was nominated as the first President-Elect to take office the following year. That movement and restructuring of the Presidency was in my year.

The other thing I take pride in inaugurating during my term was the practice of having the Presidential luncheon speech. I think subsequent experience bears it out. The President was to have the platform to talk about anything that pleased him at all; whether it related to arbitration or personal experiences or philosophy or anything. The tradition arose of giving the President one chance to appear before the assembled audience. We were having guests at our Annual Meetings by then, and this was a pleasant and useful event that we passed on.

I can't give you much help on such questions as to what committees I considered most important. I thought Ethics, of course, was the major concern. Not being an academician, I wasn't particularly interested in the research or academic side. I would like to get on the record my recollection of the undercurrent of conflicting points of view by members of the Academy who came from teaching positions and those of us who were not teachers but were practitioners. I don't know if anybody else will remark about it or will remember it, but there was definitely a different attitude towards the role and function of the Academy coming from people who were mainly teachers and part-time arbitrators and those who were practitioners in law.

Williams: Could you tell us a little bit about the attitude of, let's say, the academic versus the practitioner members were in the Academy?

Alexander: I can recollect the undercurrent between the academician and the practitioners, to use a couple of convenient terms. But the most vivid recollection that I have was having to do with the level of dues and the payment of expenses in connection with Academy activities. The academician, understandably so, felt they were underpaid and did not have money and did not want to increase dues and wanted to be reimbursed for expenses in connection with travel for Academy affairs, while those of us who were either in full-time practice or engaged in law practices or had other sources of income were much more generous with respect to the expenditure of our own money and time towards the furtherance of Academy activities.

Williams: Did the academics, members from the academic world as opposed to members from the practice world, have a different view of the function and goals of the Academy in those days -- other than the dues business?

Alexander: No, I don't think so. They were much more interested in research and educational and legislative committee activities, I think, than perhaps the practitioners. But I wouldn't want to emphasize that too much. It was there, but I can't vouch for it based on any clear recollection.

Williams: What do you consider to be the most significant qualification requirements for being President?

Alexander: Well, these days, if we are talking about current and future prospects, I think it is the ability to manage a very ungainly organization of national scope and infrequent assemblage. I think the Mid-Year Meeting was a tremendous step in the right direction. I think the arbitration field is being flooded with people and that the Academy, which did not mean to be a group of elitists for the purpose of enhancing the income of arbitrators, it has nevertheless, by a force of outside circumstances, become that. The eagerness to become a member of the Academy is just profound. There were excellent arbitrators, Sam Kagle was one, who did not care to join the Academy. There were a few other arbitrators around the country to whom the Academy was not the one all and be all, the goals for a successful career. But as I see it now, I think the Academy will continue to move in the direction of encouraging regional activities and regional meetings and the national meeting will be kind of a delicate structure.

The membership meetings, these days, are just rubberstamping the Board of Governors, as must be the case with the kind of far-flung membership that we have nationwide and the infrequency with which we the members get face-to-face to deal with problems. The regional group in Michigan has always been active locally, and we always have prided ourselves that we were in the forefront of arbitration problems. We produce, I don't know if a disproportionate number of presidents or not, but there have been a lot of Academy Presidents who came out of Michigan.

Regarding the environment during my arbitration career and changes that occurred -- the last topic on this outline --, I was brought up, of course, in the arbitration field under the major influence of the automobile workers and the automobile companies. I am the only arbitrator, only umpire, who has had permanent appointments at more than one automobile company. When I was at General Motors, I was lucky that they kept me on for five and one-half years, which was longer than any of my predecessors. In 1963, shortly after I had finished being President of the Academy, I was appointed permanent arbitrator at Chrysler Corporation and the UAW. I held that position ever since. That is really amazing in terms of longevity. I relish my contact with, in my opinion, the best run union in the country in terms of honesty and integrity. The influence of Walter Reuther and the UAW in terms of righteousness with respect to the conduct of labor-management affairs. And the automobile companies were strongly independent, resisting any interference with the management control.

I came to the field and was nurtured to believe and strongly believe that arbitration should not be elevated above the internal relationship of the collective bargaining relationship, and that the influence and encroachment by the courts and other institutions is just bad. I am unhappy with it; I think it tends to relieve the responsibility of the parties to conduct their own affairs. It is too great a burden upon collective bargaining, an infirm, not well-founded discipline. But the arbitration process in my opinion is salutary. It allows a disciplined neutral to come in who is able to understand the parties and to give them a final judgment. I am not altogether sure that awards should always be final and binding, but I am positive in my notion that the courts ought to keep their hands off of it. And that is not what is happening.

I had long debates with Russ Smith, who was a close friend of mine and was also President of the Academy at one time. He was from the University of Michigan at Ann Arbor, another one of the academicians and a great researcher. He wrote many fine law review articles on the impact of the judicial intervention and the statutory impact on arbitration. As to my own view, I think I am out of step today. The courts are doing more and more to oversee arbitrators. I have expressed myself over the past ten years, and I think that arbitration may wind up as a system of labor courts. Of course, Dave Feller spoke a few years ago on the topic of the Golden Age of Arbitration, which occurred, I think, maybe before the Trilogy.¹

There were many debates at the early meetings of the Academy members that used to be very volatile. There weren't that many members, and we did not have outsiders attending, and the debates on the floor of the membership meetings were intense. There were lots of people who wanted no part of the law. They did not want any statutory intervention, and they thought that the Taft-Hartley Amendments and the Federal Court intervention was a mistake. That this should be a private institution run by the parties at the collective bargaining level and shaped by them. Now we have the duty of fair representation, and the unions are under pressure to arbitrate or withstand challenges by their own members from failure to properly present their case. It is a dynamic that probably will continue. Collectivism is weakening. Collectivism in the sense of collective bargaining and group activities is currently decaying under the onslaught of the Republican Party. I think certainly during the Reagan Administration. Now that we have a new foreign concept of group work teams, the Japanese concept, it will weaken the power structure of the unions and the collective bargaining system. Am I yearning for the "good old days"? That is what happens with old people; everything seem to be, "Why can't it be like we were? Perfect in every way?"

¹ The Trilogy consists of *Steelworkers v American Mfg. Co.*, 363 US 564, 46 LRRM 2414, 34 LA 559 (1960); *Steelworkers v Warrior & Gulf Navigation Co.*, 363 US 574, 46 LRRM 2416, 34 LA 561 (1960); *Steelworkers v Enterprise Wheel & Car Corp.*, 363 US 593, 46 LRRM 2423, 34 LA 569 (1960)