

National Academy of Arbitrators  
HISTORY COMMITTEE INTERVIEW

George Nicolau

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Interviewed by Michel Picher

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## INTERVIEW OF GEORGE NICOLAU BY MICHEL PICHER

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MR. PICHER: I wonder if you could give us your name and address, please.

MR. NICOLAU: I'm not sure I want to do that, you know, for security purposes. My name is George Nicolau, but –

MR. PICHER: Can you give us a city? Is that too –

MR. NICOLAU: Okay. Banteer, County Cork, Ireland.

MR. PICHER: Thank you very much. We're dealing with a very rights-conscious American here.

This is the life interview of George Nicolau, conducted by Michel Picher. George and Michel are in Cantley, Quebec, beginning at approximately 9 a.m. on September 17, 2006, at the residence of Michel and Pam Picher.

George, I wonder if you can talk briefly about your birth and childhood. Where is George Nicolau from?

MR. NICOLAU: George Nicolau was born in Detroit, Michigan in 1925, spent the first five years of his life there and then the family moved to a town of about 75,000 people, called Jackson, Michigan, and that's where he grew up and went to public school, all the way through high school. Dad and Mom ran a restaurant business.

MR. PICHER: And where were Dad and Mom from?

MR. NICOLAU: Dad and Mom were from north-western Greece. They immigrated around 1906-1909.

MR. PICHER: And what kind of work did they do?

MR. NICOLAU: Well, when Dad first came here, he came alone – “here”, meaning the States – and had various pickup jobs. He did some railroad work, worked in a mill, finally opened a shoeshine stand in Massachusetts, and then eventually went into the restaurant business.

So in the course of time, two or three years he was here in the States making money, then he had to go back and get Mom to come to the States. Like most immigrants, many of them came alone and made enough money to pay the wife’s air fare – I mean ship fare at that point.

MR. PICHER: Now, in Jackson, what was the family enterprise?

MR. NICOLAU: Dad owned a small restaurant and then eventually made enough money to open a bigger one called the Mayfair Grill, which was right downtown, and all of the kids worked in it. I had two older brothers and an older sister and we all grew up in the restaurant.

MR. PICHER: So you are one of four children?

MR. NICOLAU: Well, one of four that survived. My mother had eight children and four died at various times at young ages of usual kind of illnesses and diseases that immigrants were prone to.

MR. PICHER: Now, you say that Jackson was home for a number of years. How big was Jackson?

MR. NICOLAU: It was about 70,000, 75,000.

MR. PICHER: And did you do your elementary and high school education in Jackson, Michigan?

MR. NICOLAU: I did, yes.

MR. PICHER: So how did you come to leave Jackson, Michigan?

MR. NICOLAU: Well, in 1943 I was 18, World War II was going on, and I wanted to volunteer for the armed services, the Army Air Corps, which is what it was called then, and I did that immediately after I was 18. Two other friends of mine had done the same thing and the three of us convinced the principal of the high school that we could graduate in absentia and in April of '43 I left Jackson to go into the Army Air Corps. My home was still Jackson; I didn't really leave it; I came back to it at some point in time, but that was the beginning of my military career.

MR. PICHER: And so off into the military. Where did you train, George?

MR. NICOLAU: I trained mostly in Texas. After what they call classification, the Air Corps decided I should be a navigator rather than a pilot. I think part of that was because I did happen to break a tail wheel on a Piper Cub in a landing. The depth perception was not quite as good as they wanted, so I became a navigator and came back to Texas and trained at a place called Ellington Field, which was outside of Houston, and then went to navigation school in San Marcus, Texas, just south of Austin. It now is the site of a community college. I graduated as a navigator and officer in April of 1944.

MR. PICHER: When did you go overseas?

MR. NICOLAU: About two or three months later the crew assembled in a place called Pyote, Texas, where I met my pilot and the other eight members of the crew and we flew out of that base in western Texas to various places in the United States, getting trained and getting used to each other. And then in early June '44 we all hopped on to a ship – as a matter of fact it was a Canadian ship with a Canadian captain, Canadian master – and we went to England where we were assigned to a particular base in East Anglia.

MR. PICHER: So you're a crew of 10 and what are you going to be flying?

MR. NICOLAU: B-17s. They're called the Flying Fortress, which is a four-engine, propeller-driven, heavy bomber.

MR. PICHER: And as navigator what was your station in that aircraft? Where were you situated?

MR. NICOLAU: In the front, if you've seen a B-17, there's sort of a Plexiglas nose which is where the bombardier sits on what we call the bomb run, and the navigator sits behind him, but looking out a side window. He has a little desk there that you could work. So that was the usual configuration on a 17.

MR. PICHER: How many missions did you fly?

MR. NICOLAU: Only four.

MR. PICHER: Four missions?

MR. PICHER: Do you want to tell us about some of the highlights of those?

MR. NICOLAU: Well, I think the second one was an unusual mission, because at that point in time the invasion was going on and General Patton and his tanks were breaking out of Normandy and B-17s were in effect going to be used as tactical bombers rather than strategic bombers at the time. Our aircraft usually flew at 25,000 feet in wings of 54, and that day we were just three aircraft apiece, flying at 10,000 feet, and therefore much more prone to anti-aircraft fire.

Our job that day was to bomb an airfield northwest of Paris in a town called Evreux, but the lead aircraft mistakenly took us over Paris, which we were told never to go to because the gunners were absolutely sensational there, and we went and got into a lot of anti-aircraft fire, a lot of flak, and the lead man took us back over that, even though we'd lost 1,000 feet in a 180-degree turn, and got shot at again. And then Cherbourg was under allied control, but Le Havre was not, so instead of going over Cherbourg he went over Le Havre and we got more holes in our airplane.

By the time we landed, at conservative count, we had about 200 holes in that plane, including a big chunk out of the wing root where it attaches to the body. We were very unhappy because of what had occurred, so we decided to talk to the pilot of the lead plane and I had said to my captain, who was then a lieutenant, "We really ought to tell him that he made a terrible mistake." So we went over to see him, and he was a Chinese-American, Captain Chin, and we said to him, "You took us over Paris." And he said, "Oh, no, no, that was Rouen; it's west of [the Paris]." As a 19-year-old I piped up and said "Captain, I've never been to Paris, but I know the Eiffel Tower when I see it." So that was the end of that story.

MR. PICHER: Tell us about your fourth and, I gather, your last mission.

MR. NICOLAU: That was the last mission. I used to sit up front where the bombardier sits, because I could get a better view of the terrain until we went into the target area. I was there on the way to Leipzig, and a single flak burst – we hadn't seen any flak at all on the trip, and I had just wrote down on a map what the checkpoint was and wrote down the time, 1031, and put my head up and then the flak burst shattered my leg. If I had been hunched over it would have shattered my head, but it threw me about four or five feet against the bulkhead and I thought, well, I wonder what this is going to be like.

Well, as it turned out, the bombardier, a fellow named Robert Montgomery, he saved my life. He put a tourniquet on and then shot me with morphine. I asked him later, since we had all skipped the first aid classes, how it was he knew that, and he didn't really know the answer to that question, but he just knew that it had to be done. I was severely wounded and the next day the leg was so shattered that they had to amputate it above the knee.

MR. PICHER: So your mission was actually completed after your injury.

MR. NICOLAU: Oh yes, the pilot had asked if we could turn back with our bomb load and we were told no – and I understand that – so we went a couple more hours into

eastern Germany, what was then near Leipzig, and dropped our bombs along with everybody else and then came back.

MR. PICHER: Wow. You were, of course, oblivious, I guess, at this point?

MR. NICOLAU: I was lying there off and on, you know, awake sometime, but couldn't see anything except the top of the fuselage.

MR. PICHER: So what was the after-care that you then experienced?

MR. NICOLAU: I spent two months in what is called a field hospital, the American field hospital near the air force base, then came back to the States in October of '44, and then spent about a year off and on at a rehab centre in Battle Creek, Michigan, which was the site of the Kellogg Sanatorium. The army had taken it over. I learned to walk again and learned to live with an artificial limb.

MR. PICHER: So you were one of a number of injured military there?

MR. NICOLAU: Almost all of us were amputees of one kind or another – arm or leg – and one of my mates was Danny Inouye, who is a senator from Hawaii. The great part of that time was that there was a small cadre of us, probably five or six, who made it their mission to try to make sure that anybody who came in there after us didn't leave sorry for themselves. We lost one person who had been an aspiring tennis player, who decided that he was going to be unhappy the rest of his life. The rest of them we helped straighten out, turn them around. It was great fun and we spent a lot of time in the officers' club and bars doing that bit of work.

MR. PICHER: So for you the camaraderie of the military was post-theatre, and really you experienced it there.

MR. NICOLAU: Right.

MR. PICHER: Very nice. So now you're eventually, I guess, mustered out of the military. What did you do next?

MR. NICOLAU: I decided that I had to be a little bit serious with my life. In high school I was, I think, a good student but not a particularly caring student. I was having much more fun. But I decided I had to do something with my life and I entered the University of Michigan on the GI bill in 1948. Happily I had a year's credit from military service so I spent three years at the University of Michigan and graduated with a degree in political science and economics.

MR. PICHER: So you were part of that wave of over-aged freshmen, I guess.

MR. NICOLAU: Absolutely. We were 22, 23, 24, all with military service and it was a very different campus than it had been before that time.

MR. PICHER: In terms of the social life activities as an undergraduate, what kind of things were you into?

MR. NICOLAU: Well, you know, being more serious then, I ended up on the men's judiciary council and whatever the student legislature was called. I became the president of the fraternity that I had joined.

MR. PICHER: Which one was that?

MR. NICOLAU: Delta Upsilon.

MR. PICHER: So three years was your undergraduate experience.

MR. NICOLAU: Right.

MR. PICHER: Then what?

MR. NICOLAU: I decided early on that I wanted to go to law school. I also decided early on that I wanted to be a union lawyer. So I applied to two or three schools, but the one I was really interested in was Columbia Law School in New York, and they accepted me and I decided I'd move to New York to go to law school.

MR. PICHER: What motivated you to want to be a union-side labor lawyer?



MR. NICOLAU: Oh, I don't think there's any question that it was my father's experience as an immigrant working in un-unionized places. He wasn't necessarily telling me stories, but he was telling Mother what had happened that particular day, and [was] obviously the point was that he wasn't being treated fairly and I took that to heart, that people should be treated fairly.

So I decided that one way to do that is to represent unions.

MR. PICHER: And I guess Michigan was a fairly union-intensive part of the country.

MR. NICOLAU: Sure. This is Walter Reuther country.

MR. PICHER: So Columbia Law School; did you work during the summer breaks when you were at Columbia?

MR. NICOLAU: Yes, I did. I had wanted to find some work that involved union activity and happily I met a union organizer, a fellow named George Donaghue who is now passed away, who was very active in the Catholic worker movement, and he put me in touch with two labor leaders, the head of a Teamsters local in Westchester County and the head of a large textile workers union, also in Westchester County, and I went to work for these two men over the course of the summer learning about the labor movement and what they did and so forth, and it was a great experience.

I just want to make a comment about this Teamster local head. He happened to be Greek, as I am. His name was John Acropolis, and he was one of the most forceful leaders I've ever met, as honest as the day is long – so honest that he was eventually murdered in what has become, or was, an unsolved mystery, but it certainly had to do with his honesty in what he was trying to do in that union. These were Hoffa days, if you recall, and he was just a great man.

In any event, I spent summers working for those folks, working for the law firm, too, that represented those locals, and then when I graduated from law school I went to work for that law firm.

MR. PICHER: The name of which is?

MR. NICOLAU: Sheehan and Harold – John Sheehan and John Harold, two Irishmen.

MR. PICHER: Then after graduating Columbia did you take the New York bar? You must have done that.

MR. NICOLAU: I did; I took the New York bar, passed it the first time.

MR. PICHER: And then what?

MR. NICOLAU: Well, then I worked for this law firm for three years doing NLRB proceedings and some arbitrations, and then in 1954 I switched to a bigger labor law firm called Cooper Ostrin and DeVarco. Herman Cooper was the senior partner in that firm and a tremendous lawyer, and he taught me an awful lot about life and the law.

MR. PICHER: So Herman Cooper was an influence, would you say?

MR. NICOLAU: Oh, a great influence. I have to tell you the first time I met him after an interview and it was clear that he had decided to hire me, and the first day in the office he gave me a brief that had been written by some opposing law firm and asked me to read it. I read it and later he said, "What do you think?" I said, "I think it's an excellent brief." He said, "You're right. Overcome it." That was my first job.

The firm represented the Bakery International, the Newspaper Guild, and the National Maritime Union when Joe Curran was the president, and my main bailiwick that he turned over to me was the Actors Equity Association, the actors' union headed then by Ralph Bellamy that represented actors in the legitimate theatre. I was essentially their counsel for a number of years.

MR. PICHER: Can you tell us some of the stage luminaries that you encountered in that role?

MR. NICOLAU: Well, you know, the board of directors, called the council, was just filled with luminaries. Raymond Massey was on board, Robert Preston was on the board, John Emory, Blanche Yurka – extraordinary bunch of folks, you know, and I'm sitting there as a very young lawyer and sort of being dazzled by all of this, but somehow or other I was able to muddle through.

But, you know, Actors Equity began in 1916 with a strike for recognition, and in 1960 they had their second strike. Well, I represented them for the first pension plan in the theatrical industry. I marched with them and spoke with them and helped settle that matter and a pension plan was inaugurated.

MR. PICHER: So you started at Cooper Ostrin in 1954 and left when?

MR. NICOLAU: Sixty-three.

MR. PICHER: To do what?

MR. NICOLAU: Joined the Peace Corps staff.

MR. PICHER: How did that happen?

MR. NICOLAU: It happened because I knew a reporter from the New York Post who had joined the Peace Corps staff, a fellow named Bill Haddad. He had seen me and said, "You ought to come down." These were the Kennedy years and this was a very exciting time. I wasn't sure about it, but he said "Well, come down for interviews, you know, there's lots of good stuff to do." So I did that and eventually I left the firm and joined the Peace Corps staff.

MR. PICHER: Can you tell us about the interview process at the Peace Corps?

MR. NICOLAU: You go through a series of interviews, you know, working your way up to the top, and I remember getting one report back: There's no reason why we want to hire this fellow; he only speaks one language.

But eventually I got through – Bill Moyers was then the deputy and he passed me on to Shriver. That was the last thing you met, the head of the Peace Corps, Sargent Shriver, and if he liked you, you got hired.

I have an interesting story about that if you'd like to hear it.

MR. PICHER: Please, please.

MR. NICOLAU: I was sent to Shriver's house in Rockville, Maryland. If you recall, Sarge was essentially a businessman; he ran the Merchandise Mart in Chicago and sat on the board of education, but married to a Kennedy, and the President picked him for this job, which was a great selection, because Sarge was a dynamic person. But anyway, I went to his house and there he is, and he asked me to come in. He obviously had been briefed on who I was and what had happened. And he said, "I understand you lost a leg." I said, "That's true." He said, "Well, tell me about it." I said, "Well, it was anti-aircraft fire." He said, "No no, tell me about the mission." And I had already known that Sarge was a fellow who was a very athletic type, so he wanted to hear the whole thing, so I flew the entire mission for him, including being shot up and the flares and being in the hospital.

He was sitting in a chair and he turned to me and says, "You know, that's a fantastic story. How would you like to be the Peace Corps country representative in Turkey?" And I said, "Mr. Shriver, you can't send me to Turkey," and he said, "Why not?" I said, "Because I'm Greek," and he said, "What difference does that make?" So I spent about four or five minutes telling him about Greek-Turkish history, including the fact that my parents lived under Turkish rule in Greece at the time and he took that all in and then he said, "Can I ask you one more thing?" I said, "Sure." He said, "Well, how Greek are you?" I said, "Too much."

But I went to work for the Peace Corps a couple weeks later.

MR. PICHER: So you obviously didn't take the Turkey assignment. What were you doing in the Peace Corps?

MR. NICOLAU: I was made deputy director of a unit called Special Projects, and the head of it was another reporter named David Gelman, who ended up later working for Newsweek. We wrote the Congressional Report; we wrote the Annual Report; we did evaluations of the training site in Puerto Rico and a lot of other assignments that Sarge wanted to set us on where volunteers might be in trouble in a particular country and we'd go and help sort that out.

MR. PICHER: And that was a stint of how long with the Peace Corps then, George?

MR. NICOLAU: Well, I was there for about two years, I think. You know it was a very, very exciting time. As I said, Moyers was deputy director. Frank Mankowitz, who went on to be the campaign manager for Bobby, was running Latin America, and Franklin Williams was running Africa – marvellous things.

One of the things that I was particularly proud of was the fact that some projects came out of things that I had said, along with Frank Mankowitz, because the Peace Corps was filled with college graduates and college students and there weren't any workers, quote unquote, who had mechanical skills and so on. So Frank and I said to Sarge, "You ought to do that." He said, "Well, you know, these folks have to work for a living. They can't take two years off." I said, "Well, you know, I got lots of friends in the labor movement. Let me try to convince George Meany" – who was then the AFL-CIO head – "if he could talk some companies into letting folks take a two-year leave of absence." And Sarge said go ahead.

So I'd spent time at the executive council meeting of the AFL-CIO in Chicago, and Meany said, "Yes, we can do it," and out of that came two mechanics projects, one in Africa and the other one in Peru, where folks used their mechanical skills to train others in those skills in those countries. I was particularly proud of that. By the way, there was an interesting story, because I knew that there would be some difficulty

of working people getting into the Peace Corps if the usual methods were used. Part of the usual method was the Peace Corps exam, and I said to Sarge, "You got to change the exam." He said, "Why?" I said – one of the questions, for example, is: "Define cataclysm." I said, "I don't know many mechanics who would know what that word means." He said, "Is that on the test?" "Yes, it is." So we took them in in a different way.

MR. PICHER: That's an interesting insight because I was in the Canadian Peace Corps and indeed it was all eager young college graduates with lots of enthusiasm and not much expertise about anything, and eight or 10 years later you'd better have a nursing degree or a machinist's licence to go out and do something.

MR. NICOLAU: By the way, just a couple months ago I was on a case down in Miami for an airline and at this hotel walking to the conference room, and on my right there was a big conference room with a sign that said "Paraguay Peace Corps Volunteers." It was a seminar, so I went in and introduced myself and we had a chat about what the Peace Corps was like back in the old days.

MR. PICHER: Wonderful. So what came next then after two years in the Peace Corps?

MR. NICOLAU: Well, I had wanted to go overseas with the Peace Corps and one of the country slots opened, Thailand. Medical decided that climate wouldn't be good for me to do that. By the time another slot opened that I was interested in, which was Ethiopia, it was really time to go back to New York to get on with my regular career. So I said to Sarge I wanted to leave.

By that time the anti-poverty program had begun. He was also the head of the Office of Economic Opportunity while wearing the Peace Corps hat. He said, "If you're going back to New York, would you go back for me?" I went back as the deputy director of the north-eastern region, which was all the north-eastern states and Puerto Rico and the Virgin Islands too. As the deputy I was expected to run it.

MR. PICHER: This was the Office of Economic Opportunity?

MR. NICOLAU: Right.

MR. PICHER: Which I gather was part of the initiatives of the Democratic Party at that time to kick start things.

MR. NICOLAU: Right. Well, Head Start was under our bailiwick as well as Community Action and all the other programs.

MR. PICHER: So your responsibility was the northeast; is that what I understand?

MR. NICOLAU: Yes.

MR. PICHER: How long did that go on?

MR. NICOLAU: Well, I did this in 1964, and in November of '65 John Lindsay was elected mayor of New York, a then young Republican. I had become fairly well known and when he attained office in January, after the subway strike, he asked to meet me and then he was setting up a new anti-poverty organization and human resources administration and the one that would run the actual anti-poverty program and he asked me to head it. So I became the first commissioner of what was called the Community Development Agency, so I became an employee of the City of New York.

MR. PICHER: What was the daily bread of that job? What were you doing?

MR. NICOLAU: The daily bread of that job was Head Start, Community Action – all of the programs that dealt with education and community matters in poor neighbourhoods in New York City.

MR. PICHER: So this had a pretty intensive hands-on dimension? You were meeting with community leaders, that sort of thing?

MR. NICOLAU: Oh yes, and I hired a lot of young folks out of the community to be the eyes and ears of the program. You might not know this name, but there's a fellow named Stanley Brezenoff, who eventually became the deputy mayor under Ed Koch and now is the head of an organization called Continuum, which owns a lot of hospitals in New York, and he's a brilliant guy. I wanted to hire Stanley, who was then young, as one of my street people, and I had to get permission because he had an arrest record of lying down in front of bulldozers and doing all kind of things, but I was allowed to hire Stanley and he went on to great things.

MR. PICHER: Can you remember any particularly memorable events while you were Commissioner in that office?

MR. NICOLAU: One of them was when Martin Luther King was assassinated. If you recall, a number of cities went up in flames at that time – Detroit, Newark, Los Angeles – and I was particularly proud of the fact that New York never burned, and I think one of the reasons was that the mayor was on the streets with me and all of the folks that I had hired, who were very much part of their neighbourhoods, that helped calm things, and so while New York wasn't completely peaceful at that time, it was not a place where riots occurred or where people were killed in that process.

MR. PICHER: So what came next, George? You were in that office, I guess starting in '66, and again, how long were you there?

MR. NICOLAU: At the end of 1967 and early 1968 I was persuaded that the program had been severely hurt by the Vietnam war and the money that was being poured into that, if you remember, by then President Lyndon Johnson.

He wanted to have both guns and butter, the poverty program which was built upon a series of escalating amounts to go into the program was suddenly severely cut at the end of 1967, and I thought the program wasn't going to go anywhere, so I decided to leave to do something else. I wasn't sure what I was going to do at the time, but I was convinced that the program had been severely hurt.



I don't know whether I ever mentioned, but the example I used was the Economic Opportunity Bill that was passed in the Congress in '67. In the States, every time a bill is signed by a president it indicates what the date was and where it was signed. I said in a speech that the last page of the bill read, "Lyndon B. Johnson, President of the United States, December 23, 1967, Cam Rhan Bay, South Vietnam." He had signed the bill there and I thought nothing could be clearer as to what had happened to the program.

The head of human resources at the time, during that period, was a fellow named Mike Svirdoff – Mitchell Svirdoff. He was a union leader who worked at Sikorsky's aircraft plant in Connecticut, and then helped to run a New Haven poverty program, which was one of the precursors, pre-OEO program, that was run very well. At the time he was HRA head Mike was hired by McGeorge Bundy, who then ran the Ford Foundation, to run their national affairs department. One of the things that the Ford Foundation decided to do, because they were a non-profit organization and didn't have to pay real estate taxes to the city, was to give a certain amount of money to the city for innovative programs, and they set up another foundation called The Fund for the City of New York, and Mike asked me to run that. So I became the executive director of the Fund, and we tried to do some innovative stuff during the time that I was there.

MR. PICHER: You seem to do things in two-year slices, because I gather that this went on till, what, 1970?

MR. NICOLAU: Just about, yes. I used to say to people, you know, I could never hold a job.

MR. PICHER: So what happened then, after your stint as Executive Director of The Fund for New York City?

MR. NICOLAU: One of the well known arbitrators in the States, Ted Kheel, thought that one of the ways to help reduce community conflict was to train people in

negotiating skills and mediation skills, so he and another member of the Academy, Ron Haughton, decided to set up an organization to do that, and it was called the Institute for Mediation and Conflict Resolution, otherwise known as IMCR, and Ted asked me to be the executive director of that organization and I thought that was an exciting thing to do.

I mean, you have to recall that this was in 1970. There was no acronym “ADR” at that point, that came later, but that’s what we were doing. We trained community leaders in negotiating and mediation skills; we were training police officers; we were training Department of Justice folks in those kind of things, and we ran – I do not know whether you’ve been involved in programs, but sometimes you read somewhere: Spend two or three days with me and you’ll become a mediator.

MR. PICHER: It’s an industry; it’s an industry.

MR. NICOLAU: We had said early on, nonsense, you need a lot of time in order to do it. Mike Sovern, who was then teaching at Columbia, became the dean of Columbia Law School and then became the president of Columbia, and I sat down and kind of wrote the book on how you train people in mediation skills. Then we ran 50-hour programs for classes of community folks, complete with role playing and videotape and so on and critiquing that, and turned out people who were able to use those skills over the course of their lifetime.

The other exciting thing we did – well, two things – we set up alternative dispute resolution systems dealing with minor criminal matters, you know, somebody gets into a battle because the dog is barking or the radio or something else happens, and suddenly they get arrested. We said you have to siphon those cases out of the criminal process and see if they can be mediated. That’s exactly what we did.

The other thing that I was particularly proud of was the fact that we were setting up what we called inmate grievance procedures in prisons around the country in which staff members and inmates would try to work out particular problems that were

brought to their attention, and if they couldn't, we had a system of advisory arbitration where Academy members or others would come in and hear a case and decide it.

One of the examples in New York was the length of hair. We had an advisory opinion on that, that a particular length was perfectly okay. This was at a time when – I've forgotten who it was, but I think his name was Jackson, theoretically had a pistol in his Afro, and that was one of the reasons why people didn't want long hair in prisons.

But it's those kinds of issues, and reading materials and all that stuff, that we said, look, these can be solved internally; they can be solved not by rule-making but by people working out what the rules are. And we did that in California, in New York State, in Massachusetts, and that was a particularly exciting time; not just myself but three other folks who were out of Washington, D.C., Linda Singer, who has become well known, and her husband Mike Lewis and Mike Keating. We did that in various prisons around the United States.

MR. PICHER: Was your IMCR involved in the Attica events?

MR. NICOLAU: Not directly, but we were involved in it in this way, because we knew a lot of the people who were observers during that period, that were called in when it exploded, and those observers came to where the IMCR headquarters were and we had debriefing sessions as to what occurred – so we had some influence on the eventual McKay report that came out of that.

MR. PICHER: So here you were in 1970, essentially doing ADR on a broader scale. This wasn't labor focused; this was community focused, inmate focused.

MR. NICOLAU: No, this was not labor focused; this was community focused, very different. By the way, I didn't mention this but when Ted asked me to run it I had said I would if, and the "if" was if I could start a part-time arbitration career.

Prior to my time in the Peace Corps time I had appeared in many arbitrations before many members of the Academy – Aaron Horvitz, Abe Stockman, Jules Justin, Ben Roberts – all of whom were New York arbitrators. You get to the point where you say, “I might be able to do that,” and I decided that that would be my next step in these two-year segments you were talking about. So Ted said, “It’s okay, you can become a part-time arbitrator.”

I went to the AAA. I knew the head and I knew the then deputy who became the head, Bobby Coulson, and they put me on the panel and I started arbitrating.

MR. PICHER: Can you remember your first case?

MR. NICOLAU: Oh, can I. It was a case involving a dismissal of an employee of an organization called the Four Continents Bookstore, which was the Soviet Union outlet in New York. It was run by a woman, and the issue was whether this old royalist who worked in the book stacks had said something terrible to her in Russian. And a good part of the case had to do with duelling interpreters, one of whom said it was not a terrible thing he said, and the other one said you have no idea how terrible it was.

MR. PICHER: So what was the outcome?

MR. NICOLAU: Well, I think I put him back, as I recall, but, you know, with a stern warning that –

MR. PICHER: No comp?

MR. NICOLAU: No, no. And do not say anything again that might possibly be interpreted as, you know.

MR. PICHER: So your first clients were communists.

MR. NICOLAU: Right. That was the department store workers. the Retail & Wholesale Department Store employees who represented a lot – well, still do – Macy’s and

various other department stores around New York City, and they also represented the small unit of the Four Continents Bookstore. It still exists, by the way.

MR. PICHER: So at that point did you work out of an office? How did you set yourself up to do arbitration work? You were doing it part-time initially.

MR. NICOLAU: Right.

MR. PICHER: So how was that? Was that simply out of your home?

MR. NICOLAU: Yes, right. It's been that way ever since I began. I just work out of my house as a single practitioner. I've never had a full-time secretary or assistant. I would use people that – those are the days of – you're too young to remember, but there was a time when we didn't have computers, and I would record stuff as I'm doing now, on tape, or write it out in longhand with a quill pen and Rosemary would take it and bring it back as a product that I would then edit and she would finally type up and I would sign it.

MR. PICHER: So you've always done your own case bookings dealing with the –

MR. NICOLAU: I'm afraid so.

MR. PICHER: – clients and dates and all of that?

MR. NICOLAU: Yes, right.

MR. PICHER: Wow. And still do?

MR. NICOLAU: Still do. But the Institute experience was a solid one and I did that for 10 years and I don't recall how many classes we had over the course of time, but we had a number of them. There's another incident that may be worth describing.

There was a housing project in New York in the Lower East Side then being built, called Seward Park. Under the federal regulations you have to give priority to what was called former site occupants, FSOs, of the neighbourhood. The City of New

York decided that if they did that it would be almost completely Puerto Rican buildings. I mean, these were 15-16 story apartment houses. So instead of just giving priority to former site occupants, they also gave leases to folks beyond this perimeter, and most of those individuals were orthodox Jews. The Puerto Ricans sued in Federal Court, and the issue was the same thing as the Chicago case, what's the tipping point here, what is the right balance.

I got the call when I was at the Institute from the mayor's office, the then mayor's office, saying that there might be some interest in mediating this dispute, you know, would you be interested? And I said of course. We worked arrangements where, in essence, I was asked by both sides – I had a lot of contacts in the Puerto Rican community and the mayor's office had a lot of contacts in the orthodox Jewish community, so the mutual invitation came.

It was clear to me that this problem couldn't be resolved because there were just too many people entitled to leases. You couldn't say, "Okay, everybody." – because there weren't enough apartments. So I had to spend some time trying to increase the pie. This was before the mediation started. I went to the archdiocese, which had some projects near there. I went to Local 1199, which is the big hospital union in New York, which had projects in East Harlem, and at some point before the mediation started I had enough promises to make this work if people were willing to move.

MR. PICHER: So you had to change the variables of your mediation.

MR. NICOLAU: I did, I did. Now, as the mediation began I met separately with both sides and asked them each – because I knew this was a particularly volatile situation – that if an offer is finally made here, don't react to it, ask questions about it, and then have your own private meeting, either with or without me, to dissect it and then come back with a counter-offer.

Now, when the mediation began – you have to appreciate this, most of the Puerto Rican leadership was female, and all of the orthodox leadership were Rabbis. Four of them were lawyers as well. Now, you know that orthodox Jews don't shake hands with females, so I had to spend a little bit of time talking about culture before it began, because somebody was going to be very unhappy if they stuck out their hand and nothing happened.

We are now set. The second or third session the Puerto Rican contingent made an offer, and one of the Rabbis at the end of the table started to just take off on that offer. So I turned to the lawyer Rabbi and I said, "Abraham, we agreed we wouldn't do this." So the word went down, hey, you know, we agreed we wouldn't do this. So the Rabbi gets up and they're all starting to leave the room and he said, "Mr. Nicolau is right, we said we would study this offer, and I'm sorry for what I said, but I just want you to know, if we made you an offer just like you made us an offer would we be hearing from you." Many all-night sessions ended in a resolution of the dispute.

MR. PICHER: Good.

MR. NICOLAU: And we went back to the Court. Morris Lasker was the judge at that time and he accepted the settlement and called it a triumph of civic responsibility. Years later I saw one of the head Rabbis. They also agreed to work together in the community centre in this housing project and they did, and I saw the Rabbi and I said, "How's it going?" He said, "Well, you remember" – I can't remember – Leah Tajada, she was one of the real tough folks – and I said, "Yes." He says, "Well, you know we're working together." I said, "Yeah, I understand that." He said, "I think I liked her better as an enemy than a friend."

MR. PICHER: So you now are transitioning from being a part-time arbitrator to at some point becoming a full-time arbitrator, and I gather your part-time experience began in 1970. When did you make the jump to full-time arbitration?

MR. NICOLAU: Well, before I made the jump, I became a member of the Academy in 1975. Peter Seitz was my main sponsor and I had just about 50 awards in five years. Starting out, of course, like all of us, people come to me and say, "How do you become an arbitrator?" My answer is, "Well, first you get a day job." Because I had five cases the first year – I don't know how many you had – but then 18 the next and then –

MR. PICHER: So you were then executive director of IMCR, part-time arbitrating in 1975, and that's when you joined the Academy?

MR. NICOLAU: Right. And in 1980 I decided to take the great leap forward to become a full-time arbitrator. I had been at IMCR for 10 years. I'd helped pick my successor and I said to Ted, "I want to leave," and so then I thought, well, anybody who becomes a full-time arbitrator at some point wonders whether he's going to make it or not, and I had some sense that I would.

MR. PICHER: Who would you say, in retrospect, influenced you to join the Academy?

MR. NICOLAU: Well, I think it was Peter Seitz. Did you ever meet Peter?

MR. PICHER: No.

MR. NICOLAU: Peter is just a remarkable man. He had written his own eulogy, had his son read it at the funeral, and the first line was, "I'm sorry I can't be with you today." I have a copy of it.

Carol Wittenberg, who was a member of the Academy, was a mentee of his as well, and Peter was very helpful to me and some of the others I mentioned. Ben Roberts was also very helpful to me. Ben then was the long-time umpire for the broadcast technicians, NABET, and ABC and NBC. Actually in 1975, after I became a member of the Academy, he asked me to be the arbitrator for those folks in Washington, D.C., and I said yes, and then shortly thereafter Ben died and the



networks and union asked me to be the umpire for their entire operation, and I said I would do that. This is when I was still part time, but I had that base.

By the way, I don't know whether you ever faced this, but they came to me and said that Ben had three cases under advisement and would you read his notes and decide whether you can decide these cases or whether you need new hearings. And for one of them the notes were relatively incomplete; the other two, they were complete, and I said I could decide those cases. So I made the rulings and I had no adverse reactions from them, and I served as the umpire there for, I don't know, 15 years or so.

MR. PICHER: This was for one network?

MR. NICOLAU: No, for two; for ABC and NBC and the broadcast technicians. They have locals in Chicago, Washington, New York and Los Angeles.

MR. PICHER: Both radio and television?

MR. NICOLAU: Yes. So in 1980 I decided to go full time and I did so and somehow managed to survive and to break that two-year cycle you were talking about.

MR. PICHER: Now, when you entered the Academy in those years, what was your impression? How did you find the Academy in 1975 onwards?

MR. NICOLAU: Well, I thought that these folks were a lot older than I. I think I managed to reduce the median age a little bit. It was an exciting time. I mean, people – giants of the field were in the Academy at the time – there are still some giants left, but you got kind of overwhelmed by those folks, you know, following all of them, the great scholars who were there. This was very impressive company.

MR. PICHER: You're thinking of someone like Dave Feller or Ben Aaron or folks of that stripe?

MR. NICOLAU: Right, right. I'm trying to recall who the President was at the time, and I'd have to look.

MR. PICHER: In 1975, we could look that up. You mentioned in a chat we had earlier Arvid Anderson having some influence at that time.

MR. NICOLAU: Arvid came out of Wisconsin at the time that I was with the city. They did not have a comprehensive labor law in the city of New York, and Arvid was helpful in that – probably the most instrumental person, by the way. There was a member of the Academy who died recently who was a close friend, Jesse Simons. Simons was working in essence for the AAA at the time and he convened a group of labor leaders and city officials and academics and they hammered out this eventual legislation with Jesse's help and Arvid's help, and they asked Arvid to run it, to become the chairman of what was then called, and is still called, the New York City Office of Collective Bargaining.

That organization is, in effect, the NLRB of the city, plus some things. It deals with improper practices, same as unfair labor practices; it deals with certifications of bargaining units; it deals with representation claims. By the way, when it began, New York City had something like 400 little bargaining units, and Andy's first job was to find some way to bring that number down, to consolidate units. It took quite a while, but it got done.

But the other thing that OCB does, which NLRB doesn't do, is it serves as the gatekeeper on questions of arbitrability. In the ordinary circumstance if a company says something is not arbitrable, they have to go to court to stop it. Under this legislation, it's OCB that decides whether something is a matter that can be sent to arbitration or not.

MR. PICHER: Now, does OCB have arbitrators as well?

MR. NICOLAU: They also have a list of arbitrators, a stable of arbitrators, and unions, and the City of New York or one of the institutions like Health and Hospitals Corporation pick who's going to hear the particular case. OCB is a tripartite organization. Three persons are neutrals. They decide certification and representation questions and then the full board is the three neutrals plus two chosen by the mayor's office, two from the Municipal Labor Committee, which is a conglomerate of the unions, and that full body decides the improper practice cases and the arbitrability issues.

One of the impartial members at the time was Dan Collins, who had been there for a number of years, and the other one was Milton Freidman, and he died and Arvid asked me to become the impartial member taking his place in 1987, and I said yes. Three months later, Arvid retired and went to Florida to live and I have been at the OCB ever since, through three different chairmen.

Another arbitrator member of the Academy, Carol Wittenberg, is also one of the impartial, but I'm the eldest of the – the longest serving of the impartial right now.

As I said, I've been there since 1987. Next year will be the twentieth year, and I kid the present chairman, who is a new member of the Academy, Marlene Gold, who used to be the labor relations head of the fire department in New York – I kid her about the fact that: "Isn't my term up yet?" And she says, "No, it's never going to be up."

MR. PICHER: Now, you've had a longstanding career in professional sports arbitration. How did that begin?

MR. NICOLAU: Well, it began in 1979 when I was chosen to be the arbitrator for the National Basketball Association and the players – the NBPA. It is interesting how that happened. At some function I met the senator from New Jersey, whose name is Bill Bradley, who was one of the great ball players with the earlier New York Knicks. He introduced me to Larry Fleischer, who was the head of the NBPA, and

Fleischer said, "I want you to go meet the chairman of the NBA," who was Larry O'Brien, a former Postmaster General. And they hired me, and I guess I never would have been hired except for the fact that I met Bill Bradley at some function, the name of which I can't even remember.

MR. PICHER: So you were the grievance arbitrator then?

MR. NICOLAU: I was the grievance arbitrator.

They had, and they still have, a system arbitrator that deals with other kinds of issues, but I was the contract arbitrator. That was a time, by the way, Michel, when the players could carry the collective bargaining agreement in their shorts.

MR. PICHER: Yes. It was that simple.

MR. NICOLAU: No longer. With revenue sharing and everything else, it's a tome, it's a huge -- well, you've seen airline contracts that are pretty big. Well, a basketball contract is bigger.

MR. PICHER: Now, I can't recall a strike in that industry. Am I right? Have they had positive relations?

MR. NICOLAU: Well, I don't recall that there was ever a strike. They've had up-and-down relations; there isn't any question about that, but I don't think there was ever a work stoppage.

By the way, one of the cases that I had in my short tenure was one involving a player who had been with the Denver team, and he was offered a contract by -- I think it was the Seattle Sonics. At that time the contract said that the club that the player was with had a right of first refusal; they could match the offer and keep the player. The question in that case, because Seattle was a closely held corporation, was how much was the Seattle stock worth, because part of the offer was that he could take payment in stock as well as in money. The Denver Nuggets said, "Well

you better decide how much it's worth." Happily, the agreement said that I could hire any consultant I want, so I went to investment bankers who helped me work through this thing and established the first rule.

Another interesting case there had to do with an injured player. Under the rules there was a question of whether the person was entitled to continued injury compensation if he tried to come back and play. It was in effect a standard insurance policy the way they had written it, and I had to decide whether he was still disabled even though he was playing. The answer was yes, based on the circumstances of that case. But what that led to was the players and the league sitting down and saying this kind of clause won't work, and they then wrote the contract agreement which allowed a person to come back a certain amount of times and if he couldn't make it he was still clearly disabled. There was no longer a fuzzy line there, which was the kind of thing that arbitrators do sometimes. They in effect say: This is a problem, fellows, you ought to do something about it, and they did.

I suspect my most famous case in basketball was a case involving a player named Bernard King. I don't know whether you remember King, but he was then playing for the Utah – it was then the Utah Jazz, I think. He was arrested with cocaine and being with a white woman.

MR. PICHER: And being with a white woman?

MR. NICOLAU: Right. And the club suspended him on the spot, without pay. The issue was whether the club could suspend him but whether it could suspend him without pay under the kind of contract that these players had signed. I had said that they could not, that they didn't have to play him, but they had to pay him. King was then alcohol dependent. He went to rehab; he became the come-back player of the year playing for San Francisco and then went on to the New York Knicks and had a great career, then injured himself with a cruciate ligament tear, which at that point in time was a completely disabling injury. You were gone. Bernard spent two years

in rehab and came back playing. Now you can have that kind of injury and a couple of months later you're back on the field.

MR. PICHER: Now, in sports arbitration you had a stint with indoor soccer and you were eventually brought in as the grievance arbitrator in the National Hockey League, and that ran between 1990 and 1993, I believe. But before that you became the grievance arbitrator in baseball in 1986; is that right?

MR. NICOLAU: In 1986.

MR. PICHER: Can you tell us a little bit about your time in baseball?

MR. NICOLAU: By the way, in indoor soccer I was their first arbitrator and I was their only arbitrator until the league dissolved. Now indoor soccer is coming back, but all the clubs are owned by the league.

MR. PICHER: Was this in the 1980s, George? When was that?

MR. NICOLAU: Yes, in the 1980s. When I was asked to be the baseball arbitrator, it was in 1986. I had been with the NBA for about three years; I was then the indoor soccer arbitrator. Tom Roberts was the baseball arbitrator before me and he was hearing what we've come to term Collusion One, the first collusion case involving the owners agreeing among themselves that they wouldn't make offers to persons who became free agents under the agreement. Tom got fired in the middle of that case because of a ruling he made in another case. The Players' Association said you couldn't do that; you had to let him decide the case he was hearing, and they sued and finally the parties agreed that they would send that question to arbitration, and they agreed on another Academy member, Rich Bloch, who had been fired by the players, before Tom Roberts was fired, and he decided that Tom could conclude Collusion One.

By that time I was hearing the second and third year of collusion. Tom came down with his ruling saying that there had been this conspiracy. I came down with another ruling a few months later saying the conspiracy continued.

MR. PICHER: In a thumbnail, the conspiracy being not to sign free agent players?

MR. NICOLAU: Not to make offers to a person who became a free agent and – you become a free agent after six years of service in the major leagues, and once you become a free agent, you can sign with any club.

Until that time the club you're signed with reserves its right to your services – so if you become a free agent you can offer your services anywhere. Anywhere became nowhere – no offers were made. So the union said there's an anti-collusion provision in this contract; you're violating it. And Tom found that they were. I found that they were the next year. I found that a different version of it was also collusion the year after that, and then finally the owners started signing free agents, so collusion was over, but the question was how much damage had been done, and I had to then decide the damage issue.

I did that in year one – I may have mentioned this in our chat, that when you listen to experts talking about what could have been, you get to learn more about regression analysis than you ever want to know, but my ruling for that first year was \$105 million, which led everybody to the table and I began to mediate and eventually they came to a \$285 million settlement. Then Tom and I decided on the framework that would be used to parcel out that money. And by agreement, including mine, because I never had done salary arbitration and a number of the criteria in parcelling out this money would come out of the salary arbitration procedures, it was decided that Tom should be the man giving the money away.

So I told him that he had a lifetime job. Well, it didn't turn out to be a lifetime job, but it lasted from '95 until – it lasted 10 years. Two hundred and eighty-five million was picking up a lot of interest at the time, and there were lots of claimants, and

Tom made rulings in batches for year one, year two, year three, and finally all the money is distributed.

MR. PICHER: Now it's all gone. Can you talk a little bit about Steve Howe?

MR. NICOLAU: Well, some folks may not remember Howe, but he was a young pitcher out of the University of Michigan, as a matter of fact, signed by the Brooklyn Dodgers and then became addicted to cocaine, had been suspended a number of times and also voluntarily went into rehab. Finally – he had been suspended for a long time, he went to the commissioner, who was then Fay Vincent, and asked if he could come back to baseball, and Vincent agreed that he could under some strict rules.

Then, after a year or so with the Yankees, during which Steve did very well, he went out – his home was in Montana – to purchase some cocaine. He was the victim of a sting operation. He was convicted of that offence and Fay Vincent banned him for life. My job was to determine whether that ban stood. Eventually I decided it did not, and the reason was twofold. When Vincent took him back, the psychiatrist that Vincent had hired to examine Howe told Vincent that Howe had to be drug tested probably every week. That never happened. The tests didn't occur, and the psychiatrist told him other things that had to be done, which weren't done. So that was sort of strike one.

Strike two was the fact that I was concerned that there was something more than addiction here. During the course of the proceedings, which were dominated by duelling psychiatrists, one hired as a full-time psychiatrist for the league and one by the players, I said, you know, something is going on here. Can you folks pick an expert – two experts, one who would be expert in attention deficit disorder, because it came out that that might be something in here, and another one that would just be an expert in drug addiction – to examine Howe, to go through all of his career and come up with some recommendations.?



They said they could do that, and they hired an expert in New York and the other one in Salt Lake City, and they came back and said not only does he have ADD, but ADD of the kind that is a clear reason for his addiction. So all of the time he had been in rehab, all of the time he had been suspended, no one ever picked this up, that there was some underlying cause. For those two reasons, I said that Howe had to be reinstated.

One of the interesting things about that case, Michel, is that the manager of the Yankees – Howe was playing for the Yankees – came and testified on his behalf about what a leader he was in the club house. Two or three players came. But the most significant thing was that the man in charge of security for the club, a man who had been the former head of the federal drug enforcement agency, came to testify on Howe's behalf. So Howe went back to work and he had two great seasons and then he finally retired. He died earlier this year in a motorcycle accident. Motorcycling was one of his passions and he was killed on a road somewhere outside of San Diego.

MR. PICHER: Now, you had some involvement in the workings of the National Academy of Arbitrators. I wonder if we can now focus on that.

MR. NICOLAU: Well, before we do, I just want to make one comment, that I'm still proud of the fact that I am the Cal Ripken of the baseball industry.

MR. PICHER: Nine years.

MR. NICOLAU: Nine years. Shyam Das, if he gets a few more years in, will break my record and I'm not holding my breath.

MR. PICHER: You said that you held that job from '86 through '95.

MR. NICOLAU: Right.

MR. PICHER: That's pretty amazing.

MR. NICOLAU: In '95 I didn't make a ruling, but it was an example of the kind of thing that happens to us when we're long term.

MR. PICHER: You were the National Hockey League grievance arbitrator for three years during that same period. At one point you were handling both baseball and hockey from the grievance standpoint.

MR. NICOLAU: You know, one of the sides in baseball, one side or the other, can say goodbye to you, and one of the sides came and said, "It isn't anything you've done". I mean, you know, I should have got fired for the collusion case if that was the criteria– but they said, "We just want a new face." Since '95 they've had either three or four new faces.

MR. PICHER: And hockey has had a bit of a revolving door too.

MR. NICOLAU: Oh goodness gracious, yes. Well, you know, in hockey – you probably know this, that I was the first independent, impartial chairman because until 1990 the "impartial" person who decided grievances was the commissioner of the league.

MR. PICHER: Right.

MR. NICOLAU: And then finally they signed an agreement saying we could have a real impartial chairman, so I did that from '90 to '93. I think they've had three or four others.

MR. PICHER: At least.

MR. NICOLAU: Including Joan Parker, the first sports female arbitrator. That reminds me, by the way, that I really think that I was helpful in bringing other women into salary arbitration. Liz Neumeier is there in baseball and some others.

MR. PICHER: Yes, and Liz does hockey now too.

MR. NICOLAU: I know she does. But you were, and still are, a hockey player.

MR. PICHER: I was a hockey player and I actually came into the hockey salary arbitration just at the time you came in as the grievance arbitrator in 1990, and Rich Bloch and I, as we speak, are the only survivors of that class of about seven or eight arbitrators who then came in as NHL salary arbitrators.

MR. NICOLAU: But the difference between you and me is that when you started doing that you knew what plus-minus was. I didn't.

MR. PICHER: I won't name names, but there was a famous comment by Harry Sinden of the Boston Bruins after the Bourque arbitration. He said something like, "My stomach sank when, hours into the arbitration, the arbitrator looked up and said, 'Can you just clarify something for me? What does it mean when you're a "man down"?"'"

MR. NICOLAU: By the way – you would know this – what was the KLM line – the Russian players?

MR. PICHER: Oh, for –

MR. NICOLAU: The Russian players, and they all came over here. I can't remember "K", what his name was, but I had the arbitration involving him and Brian Burke of the Vancouver Canucks. I held that in Pepperdine, because I was out there teaching in the summertime. Krutov. He was there and, as a matter of fact, I think I ruled against him at the time, but he kept playing.

This is another thing that I'm not even sure whether you know this, that long after I left hockey and someone else took over, the League called and asked if it I would be the North American arbitrator between the League and the International Ice Hockey Federation. I still am, and I think I had one case, and I had a case with him before when I was with the NHL and the players. This was a lad who is still playing,

and the issue was whether he could play for the Russian team in the Olympics. He was then with Ottawa.

MR. PICHER: Yashin?

MR. NICOLAU: Yes.

MR. PICHER: Okay.

MR. NICOLAU: And I said yes he could, but he did terribly.

MR. PICHER: Yes, Yashin had an interesting and colourful and chequered career.

MR. NICOLAU: Yes. He went to the Rangers eventually, I think, didn't he?

MR. PICHER: He was picked up at a great price at one point from Ottawa by the Long Island team, the New York Islanders, and it is still discussed among owners and agents what they paid for Yashin, who some say has never really produced to the level of his compensation.

MR. NICOLAU: Well, the first case I had had to do with his first contract with Ottawa and he wanted to break it, as I recall, for some reason or other.

MR. PICHER: Yes, he was a no-show at one point, and there's always been a colourful by-play between Russian hockey players and the National Hockey League, and as we speak today there's a young man named Malkin who has deserted his Russian team to come to the Pittsburgh Penguins. He's going to be a star – a real star – and again the Russian league is saying that this was improper and lawsuits are flying and all of this is going to obviously end up in some form of litigation.

We need to move on to the National Academy of Arbitrators. When did you first get involved in an executive capacity in the Academy, George?

MR. NICOLAU: Well, I came on the Board of Governors in 1986, but I do have to back up a bit in terms of my involvement with the Academy. About three years before –

you know, I was a fairly young member at the time and always getting up and asking questions or whatever. We were meeting in Washington and Eva Robins, who is now gone, was President at the time. I got up shortly after the Nominating Committee of the Academy had made its report as to who they were nominating for President, the Boards of Governors, Vice-President and so forth. And I asked, "Madam President, how does one who wants to be nominated get nominated now that the Committee has made its report?" She looked at me from the dais and said, "Well, you can make nominations right now, if you want." I said, "And if I nominate someone, how much time would they have to campaign?"

At that point the election was going to happen; the votes yea or nay. She didn't speak to me again for a long while, but out of that question came a committee that John Kagel ran, and out of that, three years later, came what's in the Constitution now, the nomination by petition provision. After the Nominating Committee makes its report, as of now in the fall meeting, then anybody who also wants to run has a number of months to go out and get a number of signatures and present them and then they get on the ballot, and that person nominated by petition has the same rights, and space in the Chronicle and to have literature sent out, et cetera.

So, you know, you can actually have rights. That came into effect in 1986 and the oddity is that that's the year that the Nominating Committee nominated me for the Board and Norman Feldman decided he was going to run. The first nomination by petition was against a fellow who instigated the nomination by petition. I won. As you know, I served on the Board. I served as Vice-President and then somehow or other I was nominated to be President for what turned out to be the fiftieth anniversary of the Academy.

MR. PICHER: In 1997.

MR. NICOLAU: In 1996-97. You know that until the tradition was broken recently that the President elected in year one couldn't speak until his last day or her last day in

office. So he was elected in '96, but in effect the inaugural/farewell address was '97.

MR. PICHER: In 1997. Now, what were some of the things that you and others got involved with in the Academy in those years?

MR. NICOLAU: Well, one of the important things – not the most important, but one of the important things – was our Common Law of the Workplace, which is now in the second edition. Arnold Zack and I and – I've forgotten who was in between there – thought that this was a good idea to get a group together of Academy members to write about all of the issues that arbitrators face.

It's interesting; there was a big fight in the Academy Board of Governors as to whether this should be done. You go back to the minutes and one side is saying it should and the other side is saying, "Who are we to tell arbitrators what the right answer is," and then the response is, "We're not saying this is the right answer; this may be the more significant answer, or the overwhelming answer, but it may not be, and we'll talk about the tensions that exist."

It got so heated that the minutes of the meetings at which this was discussed are almost verbatim; because of this issue we are going to, in effect, take this down. So there are pages and pages and pages of argument, and finally – Ted St. Antoine was the editor - finally he convinced everyone that it ought to go forward and, as you know, it's very, very important work and it's now in it's stages of the second edition, and I think that's something that the presidents who were involved in it should be quite proud of.

MR. PICHER: So you're describing an interesting dimension of the Academy – two schools of thought, one that sees the Academy as a vehicle for exercising energy and influence to advance and protect the process of arbitration; another school being more of the view that we shouldn't be telling people what to do or in some way asserting the Academy as a player in these issues. I think it's fair to say that

your instinct was towards the first camp, that is to say, that the Academy is well situated to do those things that its mission statement speaks to.

Can you talk a little bit about that as it relates to the issue of employment arbitration?

MR. NICOLAU: Well, there are two aspects. I was always an advocate, as some of the other Presidents were, that we ought to be involved in – when court issues arise, we ought to be involved in filing *amicus* briefs where a principle is at stake as to what arbitration is all about, and happily we were able to convince Dave Feller to write those at the time, and some we lost but most of them we won, going back to the trilogy. That's important.

The Academy, to use your words, has to be a protector of the process, but the most important element, as far as I was concerned, is the committee you chaired that I appointed to deal with the issues of employment arbitration. And you know, in Chicago your report came down advising that we should take a stand against mandatory arbitration that deals with statutory rights unless the arbitrator has the complete authority courts do, and Guidelines also came out of that report, Guidelines that were in addition to the Due Process Protocol, that Arnold was so involved in with other organizations, and that bold step we took then was a signal that we are protectors of this process and in effect folks shouldn't mess with it.

I mean, there shouldn't be mandatory arbitration which steals rights as a condition of employment; there shouldn't be non-neutrals deciding these kinds of cases; there should be fair procedures throughout; there should be the authority of the arbitrator, the same authority that a judge would have under a statute. All of these elements are very important and the Academy ought to be in the forefront of such things.

I'm still very much interested in this area. My paper three months ago had to do with a different subject but a very important one, the fact that every civilized country

in the world, except ours, has statutory means to protect workers against unfair treatment, whether they're organized or unorganized. We don't. We do have some statutes now on certain aspects, but you have to carry it yourself. "We" meaning the United States. If you're discriminated against and you're not organized, you have to bring a complaint to the EEOC and the EEOC will say, "Okay, go ahead and sue. You're on your own."

In Ireland, in South Africa, you just go to arbitration on those questions. There are public systems to deal with those kind of issues. In my view, I think the Academy ought to be in the forefront of pushing that as well - somehow or other, joining with others to say "Look, there isn't any reason why protections can't extend to the entire workforce."

MR. PICHER: I can remember vividly the committee that you asked me to chair, and I think this interview should record the quality of the people you threw together in that group. It's just a remarkable collection, some of whom aren't us with any more, and I think of Tony Sinicropi, Dave Feller, and Reg Alleyne, who were all three of them vital members of that committee, along with other past presidents. Arnie Zack was on it and Walt Gershenfeld. It was a just a remarkable group which sort of coalesced around this issue and, as we are having this interview now, that very issue of employment arbitration and the place of employment arbitration or not in the Academy is a very hotly debated and disputed question. I don't think we need to touch on that, save to say that we've come to a fairly focal point, if not critical crossroad in the Academy's history.

I'd like your impression, George, on how you see the Academy as an institution going into the future. Do you think that it has a role to play? Do you think that it will continue to do those things it's done? Are there things that concern you, whether it's the decline of collective bargaining? Do you have any thoughts about that? We can't ask you to be a prophet or a seer, but do you have a sense about that?



MR. NICOLAU: I think the Academy will always have a role. I'm not so sure that collective bargaining will not revive. You know, there are folks out there organizing now. There are some unions too who, where they are not organized, have said you've got a mandatory arbitration system in this plant, or in this enterprise; we'll represent you. And they're beginning to use that as an organizing tool. The Teamsters have done it; Unite, which is the old textile garment industry folks, have done it. SEIU has organized all kinds of folks across the country, so collective bargaining is not dead and it's entirely possible that it will strengthen as we go along.

Whether it does or not, the Academy is there. There are going to be arbitrations and the whole idea of the Academy is to make certain that those procedures are fair because the only way they're going to have just results is if there is a fair process involving people who are well trained to do what they do. That's why I think that the Academy ought to be training people as well.

MR. PICHER: Training people?

MR. NICOLAU: Well, you know, the new members and so forth, there's a lot to learn from the folks who have been around for a long while. We've done it; we do it at the educational conference, but probably there ought to be more regional work that way. Some of the regions do a good job of it; some of them don't do much of anything. I think that's important to do. I don't know what they do in Canada in that regard, but certainly in some of the regions – the Southeast Region in the States has a solid program every year to train folks. That kind of thing ought to be done.

MR. PICHER: As you look back, George, on the Academy that you joined in 1975 and today, what do you say to those who say that the Academy is deficient in that it doesn't have a sufficiently representative membership, whether in terms of visible minorities or in terms of male/female composition? Do you have any thought about where it was, where it is and where it's going that way?

MR. NICOLAU: I think there's a good number of females in it now. The representation is much better than it was. Back when I joined, I can remember Eva Robins; I can remember Jean McKelvey, but I don't know whether there were many others. You and I can tick off the names of a number of females in the Academy, so that's maybe not grown enough, but there are folks there and it's really worthwhile. Every time you go to a membership meeting where new people come in, there they are on the stage.

We haven't done that in the African-American community nor in the Hispanic community, and I think there's a reason most folks don't talk about as to why that's the case. We certainly try, but my thought about it is that if you're a good lawyer, a good advocate out there, you really are much better off financially continuing to be a good advocate than to become an arbitrator. We always kid about the fact that we're the least expensive people in the room, and that's essentially true. If you're a solid union or management lawyer and you happen to be African-American, you have no great incentive to become a member of the Academy to start arbitrating, at least financially. You might want to do it as you get on in your career because you feel as if that would not be a bad step, but I think that's one of the reasons why we just don't get people. They'd rather not. It isn't that they're not doing well out there; they are, but they'd rather not be in our world. I know enough of those folks to say that.

MR. PICHER: So your basic message, as I hear it, is a positive one. You believe in the Academy and its role and I think I heard you say it's going to continue to have a role to play.

MR. NICOLAU: That's true, but as you said, we're in a real area now where we're trying to decide on what the direction of the Academy should be, and that is a very contentious question. I don't know how that's going to come out. I really don't think we ought to talk about that because everybody has their own views on that subject

at this point, but it's certainly going to be dealt with over the course of the next year or two.

MR. PICHER: George, on behalf of the Academy, I want to thank you for the time you've taken to allow us to share your life history, a very colourful and rich one. I know I speak for the members of Academy when I say we wish you continued success and enjoyment of your life.

MR. NICOLAU: I thank you as well, Michel.