

National Academy of Arbitrators  
HISTORY COMMITTEE REPORT

Milton Rubin

NAA President, 1997

By Herb Marx

May, 2007

## **MILTON RUBIN**

**NAA President, 1987-1988**

*There is, unfortunately, no currently available record of an interview with President Milton Rubin. In its place there follows an appreciation of his life and his arbitration career.*

**Milton Rubin, of Croton-on-Hudson, New York, served as President of the Academy in 1987-1988. He died on October 27, 2003, at the age of 86.**

**World War II started Milt on his arbitration career. A minor physical problem prevented his entering military service, and, by 1941, he was working with the Wage and Hour Division of the Department of Labor. A year later, Professors Lois McDonald and Emanuel Stein recruited him for War Labor Board service in Region 2, under the leadership of Walter Gellhorn and Ted Kheel – all of whom became integral leaders in postwar labor relations. Milt’s first arbitration case came in 1943, while he was with the Labor Board. Soon after the war, he was sponsored for the American Arbitration Association arbitration panel by Stein and Gellhorn, and his arbitration career of six decades was well underway. His membership in the Academy came in 1955.**

**Milt’s initially recognized expertise was in the field of time-and-motion study and resulting standards for incentive pay. His later thoughts on work measurement are reflected in his comprehensive review at the 1979 Annual Meeting, entitled “The Arbitration of Incentive Issues”. \* In that address, Milt accurately predicted an upcoming new dimension for collective bargaining and arbitration. He concluded by stating:**

**The concept of productivity bargaining cannot avoid the development of a standard and means of measurement of work. Productivity bargaining resulting in pay dependent upon increased productivity presents challenges in the white-collar and professional field and in public employment. Other challenges are offered by job-enrichment programs based upon varied, rather than repetitive assignment. The appearance of the flexible-hours programs and the four-day week, for example, challenge the tried formulas for incentive-issues resolution. The training and disciplines brought by “technical” arbitrators from their experience with incentive issues may be the source of arbitral determination of these disputes looming on the horizon [in 1979].**

**Issues stemming from the pairing of pay with production – in whatever form – are here to stay.**

**His dispute resolution experience quickly diversified. Among his many extended, prestigious roles (yes, he put a bit of stage performance in his hearings) were as “Mr. Impartial” of the New York City and Northeast Dress Industry and as arbitrator, mediator, and father confessor for the New York City Fire Department and the Fire Fighters and Fire Officers Unions. Other longstanding panel assignments were with the New York City Board of Education, United Technology, American Airlines, TWA, the United States Postal Service, and American Flag Shipping and their unions.**

**Nothing pleased Milt more than to make his colleagues reconsider accepted beliefs and practices. If this annoyed his listeners, so much the better; at least they were forced to take a fresh look. Just one example: Milt’s Presidential Address\*\* questioned the current emphasis on “due process,” wondering whether the experienced arbitrator’s ability to provide a “fair and adequate” hearing did not better serve the parties’ interest. He concluded:**

**Due process is not assurance of fairness, adequacy and sufficiency. Legalistic exploitation of so-called due process withholds, as well as opens, evidence to the arbitrator.**

**Despite his active and challenging arbitration career, Milton Rubin had interests so varied that he was a true Renaissance man.**

**He was an ornithologist, whose bird watching expeditions took him and his wife, Freda, to Trinidad, the Everglades, remote corners of England, the coastal islands of Maine, and the Negev.**

**He played clarinet and saxophone in the bands of Fats Waller, Jimmy Lunceford, and Vincent Lopez.**

**He cultivated his own greenhouse.**

**He and Freda collected antique Japanese prints, as well as antique and contemporary art glass.**

**He formed the specialized book firm of Rubin & Rubin. The second "Rubin" is his son, but after a while their busy professional activities left the venture mostly in the capable hands of another Rubin, Freda.**

**He was actively involved in the Jane Austen and Elizabeth Gaskell Literary Societies.**

**Other admirable qualities of Milt are described in the multitude of messages arising on the Mailist upon his death. Here is a sampling of these messages:**

**For many years, I assumed Milt was a lawyer. This was because for me he embodied the qualities of a great lawyer: careful analysis, deliberate and logical argument, careful listening, and an amused gleam in the eye. A warm, courteous, cosmopolitan man. A New Yorker, in all the good senses of that term. I admired and liked him from the start (many, many years ago), and came really to love him. He was very kind to me. I grieve his loss.**

**But he wasn't a lawyer, he was a clarinetist!**

**Past President Ted Weatherill**

**Milton Rubin was a gentleman, mentor, and friend. He also was an unselfish colleague who was never too busy or arrogant to help a younger arbitrator. When I first became an arbitrator, Milton graciously gave me welcome advice and – even better – important introductions to labor and management representatives. Thanks to his warm praise, I became a permanent arbitrator for several parties and continue to hold those**

**positions to this day. Milton Rubin set a wonderful example: a first rate arbitrator of generous spirit. I am in his debt and will always cherish the friendship he extended toward me.**

**Joan Parker**

**It is a fitting conclusion to note that Milt was a great raconteur, whose stories (which usually carried an underlying moral) are repeated to this day. Among those most treasured is the one recounted by Past President Richard Bloch:**

**As Milt told it: On one occasion, he was asked to preside over the discharge of Ramon, a dress cutter. It seems there was a big family reunion in San Juan, and that Ramon's wife has been substantially inflating accounts of his success, and their family status in New York. As far as anyone back home knew, Ramon was a virtual industrial captain of (as it is known) the Rag Trade. Desiring that, for the triumphant return, she dressed the part of her fictionalized grandeur, Ramon's wife prevailed upon him to steal a designer dress from the stock, and he complied. He was discovered, discharged, and the case came before Milt.**

**At arbitration, the Union ignored the usual litigation process and turned directly to the President of the company at the start of the hearing, making an impassioned plea: "Ramon has been with you for thirty years – he's a good man, he's been a good and loyal worker. He made a mistake. Please, please don't throw him on the street."**

**As Milt describes it, the president was moved, but obviously conflicted. He turned to Milt and asked: "Mr. Impartial, what should I do?" Milt responded: "Don't ask me what you should do – I have a different responsibility; this is a theft case, the parties have asked for a decision on just cause." While everyone in the room sat, the president got up, went to the windows and stood looking out over 34<sup>th</sup> Street for the longest time. Finally, he turned around and said, "OK, OK, he can come back to work." The people were jubilant.**

**When the room had cleared out, the president turned to Milt and asked, "What do you think, Mr. Impartial, did I do the right thing?" Milt turned his palms up and said: "It's a very difficult problem you had – he stole." The president stood up and once more looked out the windows: "Yes, Mr. Impartial," he said softly, "and I steal a little, too."**

**Footnotes (if wanted)**

**\* Proceedings of the Thirty-Second Annual Meeting of National Academy of Arbitrators,  
Bureau of National Affairs, 1980, pp. 92-104**

**\*\* Proceedings of the Fifty-First Annual Meeting of National Academy of Arbitrators,  
Bureau of National Affairs, 1999, pp. 1-8**

**Herbert L. Marx, Jr.**