

National Academy of Arbitrators  
HISTORY COMMITTEE INTERVIEW

Peter M. Kelliher

NAA President, 1964

Interviewed by James Stern

May 30, 1989

PETER M. KELLIHER  
PRESIDENT OF THE NATIONAL ACADEMY OF ARBITRATORS  
1964 TO 1965  
INTERVIEWED BY JAMES STERN  
AT  
THE CHICAGO HILTON AND TOWERS, CHICAGO, ILLINOIS  
MAY 30, 1989

**James Stern:**

We are attending the 42nd Annual Meeting of the National Academy of Arbitrators at the Chicago Hilton and Towers in Chicago, Illinois. It is Tuesday, May 30, 1989. My name is Jim Stern. I am interviewing Peter Kelliher who was President of the Academy in 1964. This project is sponsored by the Academy History Committee in order to preserve the account of activities and the background of Academy Presidents.

So, Peter, if you're ready let's start right out with your personal background. Do you want to indicate where you were born, raised and educated, please?

**Peter M. Kelliher:**

I was born in Chicago., I went to the University of Chicago for my college work and my law degree.

~~When did you finish up?~~

I finished my undergraduate work in 1935 and law school in 1937.

When did you get into arbitration? I guess, what I really want to know is for you to briefly trace your employment history before you started to arbitrate.

'3&f0ft~ When I got out of law school I did work in some offices for ten dollars a week, etc.. Then, I found a job as special assistant to corporation counsel for the City of Chicago, acting as the legal advisor to the commissioner of subways and super highways. After I did that for a period of time,, I started teaching labor law. I had taken labor law at the University of Chicago Law School. It was the first time labor law was ever taught at the university. That was because, before that, many of the lawyers around the country believed that, the liberty lawyers, who said the Wagner Act was unconstitutional, believed that there was no sense in developing any kind of body of law around labor laws. It turned out that the act was declared constitutional and I did take one of the first courses under Leon Dupree, who was then substituting for Charles Oscar Gregory, who

had been a member of our Academy, and found the course very interesting. I was called upon to teach labor law at Loyola in Chicago. In my class, I had some law students, some people who came from industry, some from labor who wanted to sit in on the course. One of my pupils happened to be an M.D., Doctor John Meade, and he found labor relations more intriguing than medicine. He later became the assistant to Doctor John R. Steelman, who was then head of the United States Conciliation Service, now called the Federal Mediation Service. As the defense period began/ we didn't call it war back in 1939\ they decided that there were strikes all around the country and that there was a great need to keep labor peace, so that we could prepare for what was eventually going to be war. My friend and pupil, Doctor Meade, had recommended to Doctor Steelman, that they contact me and invite me to become the U.S. Commissioner of Conciliation. I was invited to Washington, did become a commissioner and became part of a panel of three commissioners that would go out into the various areas around the country, where the local commissioners had not been able to effect settlement of a strike that would involve some type of defense need. I did that for, I'd say, about a year and a half and then I had an invitation from Uncle to join the .Army\* I left and went into the Army as a good buck private. I then became an agent and

then special agent in counter intelligence. I then went to Officer Candidate School. ^As I was graduating, I was advised that I'd have to come into the commandants office. I wondered what happened now. I thought I was going to be flunked out and I didn't know why or where. He said "Well you're not going to get the regular leave, you have to 0 Washington\*, you're being assigned to Lieutenant General Gregory", ^who was then head of the quartermaster corpj• So, I of course went to Washington and I was a second lieutenant trying to advise a lieutenant general. It developed^ •tehat^what hud happened .Witt~. that Lieutenant General Gregory or some of his assistants had asked Doctor Steelman to assign a commissioner, or more than one I guess, to his office. He said "Well, you've got one of our guys in your army." They found out where I was and brought me to Washington that way. Then I later became chief of the labor relations section of the sixth service command, which covered Illinois, Michigan, Wisconsin and the upper part of Indiana. During the war, my chief role was settling major strikes that directly impeded on the war effort. One of them turned out to be settling a strike that had been going on for about four months and no one was paying attention to it because it was Phoenix Manufacturing Company and all they did was manufacture mule shoes. But suddenly, General Stillwell found out he needed mule

shoes and wasn't getting them for his China? - Burma, - India theater. I was sent down to see if I could settle the strike. Fortunately, I did, in about six hours *bjl.* also.\*  
*/fygf* developed a program to maintain liaison with the War Labor Board, the Sixth Regional War Labor Board. In that connection, I met Bob Burns and I met many of the men who went on with the War Labor Board. When it got near the end of the war, the war was over, they had a meeting of the U.S. Chamber of Commerce, and the National Manufacturing Association *auG?* the AF of L and the CIO, (they were then separate^ They went through many, many days and weeks of sessions. They could only agree on one major thing and that was the desirability of the final settlement of grievance^ -*arbit.j.* *ufcJ.au* by way of the arbitration step. That of course, then led to the question as to who's going to do this arbitration. The participants in that conference were asked to go back to their hometowns and to select a panel of men they believed could be neutral and could be arbitrators. I was selected by the panel^ and *SAien* that happened I thought that this isn't going to last long, I'll work myself out of a job in six months. But it didn't turn out to be that way. Some forty five years later, I'm still doing some of the same thing.

When was this that you first started arbitrating?

I started arbitrating in, oh, let me go back a little bit. When I was with the Conciliation Service, as it was then called, now called Mediation Service, I became acquainted with a man by the name of Doctor John Lap. John Lap, to my mind, along with Harry Minis, who I attended his course at the University of Chicago, and Doctor Paul Douglas, who later became a United States senator, were some of the earliest arbitrators in the country. They did work for ILGWU, amalgamated jftlothing workers and many of the early, strong unions and company arrangements. I asked John Lap if I could sit in on some of the arbitrations. He was most generous and he permitted me to do so. I then, actually took part in arbitrations. I would say that, after this 1945 or was it '46 Labor Management Conference, I immediately started doing arbitration work and there was no shortage of work. At that period, and for some time later, they had what they called free arbitration and found that, that was not good from the point of view of the arbitrator and I don't think from the point of view of labor relations in peaceful settlements of disputes. Because it was free, either one of the parties would make a request and the arbitrator would come to a meeting and then he'd be sent out in the hall or to einother meeting room or any place he wanted to hang out, while the parties made a first time attempt to really settle it. That could go on for

days. The parties had no concern because they weren't paying for it.

The free arbitrators were men who were employees of the federal government, weren't they?

Yes, that's right, yeah.

So, they were really competition for the ad hoc?

That's true. That's true.

But, you say that you had no problems in terms of low caseloads in the early years. You were well enough known because of your previous activities?

Yes, by being head of the Labor Division of the Army I had occasion to settle labor management disputes that directly impacted the war effort.

OK. Well let's turn now to items connected with your membership in the Academy. Let's see. You're a charter member, are you not?

Yes, I think I was one of the original three members of the, of what later became to be called the Academy. We had met in Chicago briefly and then later on we met in

Washington. Then, I think, there were six or seven men, maybe eight that were part of it.

If I recall correctly, you made a videotape along with Bill Sijwifccin and Ralph Seward, telling members how the Academy got started and different things about its early activities.

That's correct.

We can skip that part since you're already on videotape on that, but let's more about your role in the Academy after the initial meetings. Can you recall your committee assignments or positions you held? Let's see. Weren't you the first fsecretary. treasurer?

I was the first ^ecretary-'jtreasurer. The offices were then combined. I had our first meeting, our first convention was held in Chicago. I had the duty of setting that up. Our first convention was at the Drake Hotel and then my office became the office of the Academy, so to speak. I did get involved in on, not the meaning of the committees, but coordinating the reports etc..

How long were you ^secretary-treasurer?

I believe it was four or five years and then I persuaded

our friends that those offices should be separated because we're beginning to grow. So it was divided into ^secretary and .treasurer. That's about it.

Did you continue as either the <sup>J</sup>Secretary or the treasurer?

No, no. I stepped down after that.

Who succeeded, do you remember who succeeded you, was that Bert ^Juskin who moved in?

No, no. I think, I'm trying to think of the name of our friend in Washington D.C., Al uh, I could look at an old list and it would come right back, but, he continued for some period.

After you no longer continued as Secretary-treasurer, do you recall what other positions you held prior to the time you became president- flect?

I served on various committees. I was particularly interested how we develop new arbitrators, what do we do. We also had much in the way of policy studies. The dominant thinking for a period of time was that we were going to limit our membership to one hundred. It was going to be like the Academy of Sciences or some of these

other learned organizations that would be just for the select few who could become arbitrators. I did myself personally oppose that. I felt that we had to grow to meet the needs of the country and arbitration was developing very rapidly.

Some people say that we get new members now who join the Academy in order to get cases. Do you think back in those days that membership in the Academy, when you took a new person in, affected his caseload?

Yes, I think that, that's not entirely an ignoble motive. I think that the parties who became acquainted with the existence of the Academy and our ethics, code of ethics, they wanted men who had recognition among their fellow arbitrators. In order to be an arbitrator, you had to have some acceptance, by both management and labor. Yes, I think it did have the effect of increasing the caseload of people who were members. Of course, I think, Jim, one of the great weaknesses, I was going to cover this later, is that maybe the Academy is a little bit too publicity shy. At least until recently, many of the members of the media did not know the difference between arbitration and mediation. I'm constantly encountering that even today among otherwise educated people, that think when you go out to arbitrate people say that you settle the strike.

I think that we have to explain that we weren't mediating we were arbitrating, and then have to go into the full explanation.

Let's talk about the time just before you became president. You became president-elect. That system was in effect?

That's right. I believe it was then.

And do you recall how you were selected?

I don't know. There always was a nominating committee. Perhaps like many organizations there was an understanding that this man will be president-elect and then will later on a man who was holding the office for Vice president might move up and ... I don't know there was undoubtedly some sort of formal understanding that way. I don't remember any bitter campaigns of any kind between people who wanted to become president.

**I •**

Once you were selected as president-elect did you have any particular duties in those days, how did that work out?

I don't recall. There were too many.

**K**

Nowadays , it's pretty complicated. Our president-elect's first big

job is to figure out his committee appointments. Now was this true also for you?

I think it was well that you knew who would be on the various committees before you assumed office.

So you had to name them back in those days to?

Right, right, as I recall.

Did you have to reduce your caseload when you were <sup>of</sup> president-elect?

No, I don't think so. I wasn't conscious of it.

Well before we move on to the presidency, is there anything else that you can recall about that period when you were president-elect that we ought to put on the tape?

No, I guess we worked on our acceptance speech or our presidential address, I should say.

Let's turn then to this period when you were president of the Academy. Thinking back about it, do you recall what were your greatest, your major goals, during your term in office as president?

Since I had done some teaching, I thought about how do we train our new arbitrators. Many men were entering the field who were not lawyers, they had not had any long experience with labor-management relations. I felt that there should be some sort of a program. We had joint meetings with the American Arbitration Association on the training of arbitrators.. Russel Smith, who was a professor at the University of Michigan, was president elect during my term and he and I worked together on that and Russ carried it on very effectively. I haven't seen Russ here this year.

No, I haven't seen him either. I asked Charley Killingsworth and he doesn't know where Russ is. Education of new arbitrators and training and so on was your major goal. What about problems? What, in looking back, what was the biggest problem you faced?

I specifically don't recall any but we were talking constantly about the code of ethics and also this question of publishing decisions. There were some members of the Academy who felt that it was wrong to publish a decision without getting the written approval of the parties. Others just sent them in automatically to the BNA and Congress Clearing House.

Were BNA and Congress Clearing House publishing decisions in those

days?

They started quite early, particularly BNA. Their representatives came to our Academy meetings. And they published the addresses of the presidents and the proceedings of the Academy at a very early period.

Let's see. I guess it's about our 11th meeting that they really started annual publications.

Probably so. Yes.

Thinking back about that time in office, what would you identify as your greatest accomplishment?

Keeping the Academy alive for one year. Getting the education program started and adding the concept of interns.

Was there any particular disappointment during your term in office?

No, I can't really recall any.

That's good.

It was a pleasant relationship.

How much time did it take? I mean, did you have to cut down your caseload? What's your recollection of that?

I did to some extent when I was president. Yes. Not when I was president elect. I'm afraid that's almost like being vice president of the United States.

In terms of the committees you appointed, which one did you think was the most important?

Again, I was concerned with the matter of training and we were also working on the code of ethics. I can't recall anything beyond that.

Another question on our outline here, concerns qualifications for the Academy President. If you were giving some advice to a nominating committee, what would you tell them to look for in a president?

A president?

Uh huh.

I would certainly want a man with integrity. Fortunately, in the history of the Academy, unlike in the history of our court system or our congress, we've never

had any scandals involving the honesty and integrity of our arbitrators and that certainly applies to our officers. Beyond that, *J.* think you have to have a man who is going to work. It's not simply an honorary position. People who treat it so are doing a disservice to the Academy.

Any suggestions you want to put on the record for future presidents, what they should do?

I think that they should try to get around to the regions, as much as is possible. I know that's asking a lot to cover them all but at least make some attempt in that direction.

Before we go on to the next section of our outline here, is there anything else that you think you'd like to put onto the tape concerning your presidency?

I can't recall. We had a great meeting in Washington D.C., well attended. The presidential party was fun. There was a good deal of excitement in the city then. Then, that's about it.

Let's see. Lyndon Johnson was president then, wasn't he?

Uh, '64, I think you're right, yeah.

At your party, do you recall, were there many important dignitaries from the outside, from labor and management?

Yes, there were but I can't recall all now. I remember that Secretary of Labor Durkin came to our meeting. I'm not sure which one it was, at this point. We've had many of the secretaries of labor come to our meetings.

I don't think that continues to this day. There doesn't seem to be secretaries of labor that want to spend time with us.

You have a better chance if you're somewhere near Washington, I guess.

Probably, that's true. Well let's move on and talk a bit about the environment during your arbitration career. Do you want to talk about how it's changed, from when you first became an arbitrator, to what it is today? Or how do you want to handle these topics? I see you've got notes on it.

Yeah, I was going to make notes but I'm not going to bother with my notes. Although I might take a look at them to see if I missed anything, when we're near the end. In the very early period, there was, the principle

thing was recognition. The unions in the mass production industry were something new. There was great emotionalism and sometimes violence or almost violence. I recall arbitration hearings where, at the beginning of the hearing and sometimes during the hearing, the most important function of the arbitrator was to keep the parties apart and we always wished for as wide a conference table as possible. Once in a while, someone would lose control and that was bad. I recall one very emotional man who, every time the company lawyer made an objection, he would burst into profanity and said we're not going to allow any objections here. He attempted to take over the meeting. But I did hold a little conference of the two advocates and then I had to speak alone to this union leader, to calm him down and thank God it worked out alright. There was bitter feelings, in that period, much more than there are now. I think the parties have learned to accept each other, to know that they both have a right to function and the relationships over the years have gradually improved.

Were there specific problems that occurred in the early days and different problems that have occurred in later days, in terms of different labor problems, that come into arbitration? Supposedly, in the early days you created all these general principles and ??? was important. Nowadays, it's supposed to be more routine. But

what's your view?

I think that it's true that, in the early period, we were largely on an uncharted course. We did have to enunciate principles that we think were adopted by other arbitrators. We don't follow a strict ????? ????? I'm sure, but, where some new problem came up, one arbitrator would follow the decisions of another arbitrator if it appeared to be a well reasoned opinion. That's why I think being in the Giniiji i Clearing House did so well because the parties were citing decisions.

In terms of national policies on labor relations, we had that early period of the Wagner Act, pro labor, then we had labor regulation through Taft Hartley and, in more recent years, we've had this reversal. The unions used to see the NLRB as their savior. Now, management, which used to criticize it, seems very proud of it. Do you want to comment at all on national policy as you see it and what's happened during this period?

Well, I think we used to pride ourselves, in this country, that we try to keep the hint of the National Labor Relations Board, certainly arbitration, out of the political surge. In this country, we never followed the, what was it, Kansas Vs. The Industrial Courts. Where, in Kansas they attempted to set up a compulsory arbitration

) administered by the state. I don't know whether you were, were there Jim, but we did go to Australia and to New Zealand and studied where their National Academy of Arbitrators happen to be and why. The then head of the Australian Labor Courts was one of our speakers. He invited us all out to Australia and we had a chance to hear the people who participated in the labor courts there talk about their experiences. I still feel our voluntary system certainly is preferable to that. In terms of labor peace, our record has been better and I think that Australia has been handicapped by having too much strife.

i Now, I gather things are changing down there and that there moving a little bit toward our system...

Yeah.

Just as we in the public sector are moving a little bit toward theirs.

That's right. There was one situation they told us about and I think it was Melbourne. They had a jurisdictional dispute as to who is going to put the glass in the windows. The glaziers claimed this glass. The carpenters claimed that someone else... As a result of

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it, they didn't get glass in the window for twelve years.

That can't be a well organized society.

Well, its got to be a warm society. It wouldn't work in Chicago.

That's for sure. Well let's look at your notes there and see if there's anything else there that you want to cover now.

Well, I think in terms of getting the public to understand more about arbitration, it would be helpful, that when someone is accepted into the Academy, that some kind of a little note would go out to the local papers in this community. When someone becomes president elect of the Academy, that notation should go out. People just don't, people think of arbitration as a very strange matter. They don't understand it. We do. You do. I do and all of our members of the Academy do but its strange how little the public understands. I think they could be better informed.

I think that's an interesting idea. On one hand, I like it very much. We would invite the press in and let them interview our new president, who are new board of governors are ...

I think we should write to the AF of L CIO and tell them, they've got newspapers that go out all over the country. We should write to the Chamber of Commerce, the National Manufacturers Association, they've got big public relations organizations.

We could send them pictures of our board and that sort of thing but...

We don't have a public relations officer.

But, what about some of our members who would consider this improper or advertising, that we're really promoting our services. What about that point of view in terms of this whole ethical question of no solicitation?

I feel it is more of an educational duty that we owe the...education of the public. I'm sure that the people who select our arbitrators are sophisticated. They know who's who in any particular town. I don't think that's, there not going to be deeply motivated by some name they happen to see in the paper. On the other hand, what's wrong with giving recognition to people who obtain these honors.

That's an interesting point of view and I think, not only will this

) be reflected in the tape, but I'll mention this to our current officers and see what sort of reaction they have. Because it is quite different, from the way we operate right now. We're here in Chicago but I doubt that there will be any press here at all.

Yes. Now we had our first meeting in Chicago, what was it in 1946, I believe, at the Drake Hotel. We had great publicity. Of course, it was something new. It appeared in the national magazines around the country. We had men who participated who were well known figures. That was good.

Well, is there anything further? I think we may have covered our outline and...

I think so. Thank you very much.

Well, thank you on behalf of the Academy History Committee. I appreciate your willingness to take the time. Personally, on my behalf, I enjoyed this. Thank you very, very much.

Oh, I'm glad to.