

National Academy of Arbitrators

HISTORY COMMITTEE INTERVIEW

Russell A. Smith

NAA President, 1965

Interviewed by Arvid Anderson

November 30, 1990

RUSSELL SMITH

PRESIDENT OF THE NATIONAL ACADEMY OF ARBITRATORS

1965 TO 1966

INTERVIEWED BY ARVID ANDERSON

AT

NAPLES, FLORIDA

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Arvid Anderson:

... interview with Russel Smith, former president of The National Academy of Arbitrators... in Naples, Florida at the residence of Russell Smith. It is November 30, 1990. I am Arvid Anderson and I'm interviewing past President Russell Smith, who was president of the Academy in 1965. This project is sponsored by the Academy History Committee in order to preserve the account of activities and the background of Academy presidents.

First we are interested in your personal background and I would appreciate it if you would just do that in a narrative fashion, Russ .

Russell Smith:

I was born a long time ago, in a little town in Iowa, Manilla)Iowa, September 20, 1906. I was raised in South Dakota. My father was a retail hardware man up there. I attended Manilla College, in Iowa, graduated

in 1929. I was a Phi Beta Kappa there. After an interlude, when I did a little special teaching during the depression out in Nebraska, I got back in to Grinnell and spent an extra year there in graduate work in mathematics and then decided to go to law school and went to the University of Michigan and graduated there in 1934. I was a member of the ??? upon graduation.

This was in the depression, there weren't that many jobs around for lawyers coming right out of law school.

- I wound up with a cravat firm in New York, which was then called ???. I was there from 1937 to 1939 or '40. Came back on the law faculty by invitation at Michigan and that's the educational part of it.

Well, you want to talk some about your work experience?

This is back in the hey days of the National Labor Relations Act and unions were blossoming all over the place and there was organizing going on. It was finally thought by the law school faculty that we ought to have a course in labor law, Harvard had one and I think Yale was the only other one at that point. So I was given, being the most junior member of the faculty, I was assigned that particular project. And literally, that was the truth, nobody wanted it. In fact, most of them didn't think there was such a field as labor law, a

distinctive field at all, at that point. Given the assignment, I had to organize some materials, which I did. Then the war came along, I was married and had a family, managed to, most of the faculty had to either into the service or service related industry. I went to New York with the Pan American Transport Company as a labor law specialist' and spent a period there. It was interesting because unions were busy organizing there plants, including there big plant down in Texas, I spent a good deal of time down there, dealing with the Oil and Chemical Workers Union in that process and handled a few negotiations with them.

After the war, what happened then?

I was invited, of course, to come back to the law school. I had to make a choice at that time whether to stay in industry as a -labor law specialist, I had a chance to do that with the Bell Telephone System, or come back to Michigan. I elected to do the latter so I came back on the faculty. I was on the faculty then over 1946 to 19 72 when I retired. Part of my responsibilities during that period was to help run an institute of labor and industrial relations, Ron Haughton was the co-director of the medias at Wayne State University at that point. We had that operation

going for a number of years. Of course, being in the teaching field, I, like many others, occasionally got an assignment to do extra curricular work of one kind or another in mediation or arbitration. I was on the Atomic Energy Labor Relations Panel along with ????, who was chairman of the ???? and Bob Fleming during that period.

They were some pretty distinguished fellows that you were associated with.

Later, President Eisenhower through Jim Mitchell and the Secretary of Labor decided to do something about the railroad industry and its mining problems and he created what was called the Presidential Railroad Commission. On that were John Dunlop, Frank Robertson, Charley Myers, all Academy members, and I. That took about two years, running around the country to hearings in Washington and so forth. Hard fought situation ????

Did you have any colleagues in the arbitration business or were you sort of on your own out there?

Pretty much on my own.

Did you have some other colleagues though, that eventually came in to the Academy and that sort of thing?

I was very friendly with Perry Plant and Dave Wolf and Gabe Alexander, all of whom were in Michigan. We had a great deal of contact with each other and they were instrumental, I think, probably in getting me into the Academy and getting me interested in it too. I was admitted into the Academy in 1949.

That's almost a founding father, isn't it?

Just about, three years I guess.

Then can you tell us something about the development of the National Labor Relations Policy? Because you were sort of at the cutting edge when they were debating the Wagner Act and the Taft Hartley Act and all that sort of* thing.

That was the early environment, that they asked me on this little memo they sent out about the environment during my arbitration career. That covers quite a lot of territory. At the beginning of course, as you well know, there was a lot of activity at the Federal level in the National Labor Relations Board and Mediation Board and an attempt to deal with post World War II

problems, of one kind or another, special commissions set up. Naturally, people who were in the labor law teaching field tended to get involved in one way or another in some of those activities. And also, as I pointed out, in the memo I sent to deal with this matter. The legal status of arbitration during that period was significantly enhanced by the famous Supreme Court Trilogy decisions in 1960. This led to, or was concomitant with, a very rapid development with the use of arbitration in the public sector. So that was one very significant, I think, development along the way.

Mentioning the development in the public sector, what did you have to do with that in Michigan and in Florida?

I was on various commissions in Michigan, arbitration panels and mediation panels and so on. I was the initial chairman of the Michigan State Bar Labor Section. I can't remember the date right now. That took a good deal of my spare time for a number of years.

But you were also sort of a pioneer here also in Florida, weren't you?

Well, Florida finally enacted its statute, I can't remember the date now, Public Employment Relations Statute and I was invited to, by the governor, to become a member of the initial commission administering that particular legislation. I was on that for some little time, about two or three years I think. I was on that when we came down here. We came down here in 1975.

You've been here for fifteen years. That's a long time. Tell us something about your academy activities, the kind of committees you were involved in leading up to your becoming president and that sort of thing. Will you describe some of that for us?

I think I'm supposed to indicate how I got into the Academy, or by what devious methods. I was recommended by Harry Piatt, Dave Wolf and Gabe Alexander. That seemed to carry some weight. I was teaching at the time and my arbitration case load was not particularly heavy, fifteen to twenty cases a year and various Academy assignments were made including the Committee on Law and Legislation, which I was on for several years. At the 1963 meeting I gave a paper on arbitration arbitrability. They inquired whether or not membership significantly affected my case load, I would say it probably did not, one way or another.

It didn't impact that much on your time, either, being president?

Not really, well, yes it did, definitely. It increased of course as time went on.

I found that the heaviest duty was to, when you were president elect, to get the people who would do the work when you were president.

I guess that's about right.

Was there any, who nominated you for ...

I was nominated by the Committee, Nominating Committee, chaired by Pete Kelliher. My duties as president elect were really to assist the president in planning for the year and whatever else he wanted me to do.

Do you want to tell us when you became president and describe what, went on in an eventful year, starting out with the unusual location for the convention?

We decided to have the Annual Meeting, this time, in Puerto Rico. As I recall, Dave Hellfeld was one of the other persons rather instrumental in making that possible. He was in Puerto Rico, in the law school

there.

Dave is now a member of the Board of Governors.

Yeah, he's a very nice guy. I haven't seen him for years. Anyway, it provided an occasion for giving some attention to the problems of minimum wage legislation in Puerto Rico because there's a special statute. I don't know if we still have it or not, but it allowed something less than the minimum down there, provided it was recommended by and approved by the Secretary of Labor. So that's one thing we thought we'd touch on, at least, during the Academy Meeting there. One other thing we did was to deal rather extensively with the general problem of proof in the arbitration process. We established several committees, who worked on an agenda which we gave them, to consider a number of specific problems. There was the West Coast Committee, for example, Ted Jones was the chairman of that. A Chicago Committee, Bert Luskin and Alex Elson were co-chairman. A Pittsburgh Committee, Clare Duff was chairman and the New York Committee, Art Stark was Chairman. These committees had engaged in a series of workshops during the year, that is the year up to the time of the Annual Meeting. Each followed a common agenda on matters for discussion at those meetings.

And at the Annual Meeting, their reports were presented. They were pretty elaborate and detailed and a lot of time was spent on that particular project.

Did it develop any significant differences?

There were some as I recall. I couldn't pinpoint now just exactly what the areas of difference might have been but the Annual Meeting records will indicate these reports were very detailed and evidently the people involved did a lot of work on them. They had management and labor people involved and so forth. Following the workshop sessions there, at the annual meeting, we had a general session on a subject, which was chaired by President Elect Bob Fleming. This was a major undertaking, so far as I can recall, during that particular year.

I recall that we followed up with some of these workshops in the convention, when Bob was president, at San Francisco. Was there any other thing that you worked on?

No, that's the thing that stands out, in my recollection.

Did you have something to do with the Committee on Law and

Legislation?

Well, I had been on that for years. That preceded my tenure as president. In fact, I wound up as chairman of that. We recommended uniform legislation of various kinds including, as I recall, the Uniform Act, at one stage got ?????

Well, it's eventually, the Uniform Arbitration Act eventually got passed, sir, and it's used as a model in a number of states.

Yeah, that's right.

As a matter of fact, it's being used as a model now, we're trying to enact a Uniform Employment Termination Act. The number of these "at will" law suits have convinced some employers. They like this as an alternative.

Less expensive and drastic process.

What would you say the most important qualifications were for a president of the Academy?

I don't know. What would you say?

I noticed your answer and I think it's very good. The general

respect of fellow Academy members and the labor management community is a very important qualification.

I guess you could add to that the ability, the way in which the Academy has expanded it's general activities over the years, administrative skills are also important.

Yes they are. Yes they are, particularly the selection of a good secretary treasurer, who is the institutional member of the Academy and also the key Academy, committees, such as membership and program site selection. These are terribly important committees. Do you have any comments about what you think the Academy should be doing today, that it isn't doing? Or, do you think it's doing what it should?

I follow the annual meeting proceedings, of course, and it seems to me the Academy's doing its job pretty well. I don't have any real criticisms of the kind of work they've been doing and the kinds of discussions they've had. Reviewing Dallas Jones' extensive minutes of the board meeting, it's evident that many items have been discussed at great length and points of view presented with considerable vigor.

Oh, that's true. Do you have any comments on the evolution of

the National Labor Policy during your long tenure, from really the inception of the arbitration process to the development of the public sector and also the current economic problems?

That's a big order.

Well, any part of it. Just the enduring qualities is ...

Evidently, arbitration is here to stay. I would assume so, and seems to be expanding in other areas. That may be the most, one of the incidental, secondary, hot pits of the labor arbitration process. I don't know to what extent the spin over is there but with management there might be, might have been.

Well, I feel the current acceptability of labor arbitration has encouraged its use in other fields.

I think so. There even trying to work it out, I guess, in some states, how to handle this problem of injury liability, which is a very difficult one, when you view the litigious aspect of it.

Yes, and the system which gives substantial rewards to some of the plaintiff's counsel. Well, I think that really covers, very much, your term as president in a very brief fashion, but we

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thank you very much. We've been, tctlking to Russell Smith at his home in Naples Florida. Thank you very much.