

National Academy of Arbitrators
HISTORY COMMITTEE INTERVIEW

William J. Fallon

NAA President, 1985

Interviewed by James Stern

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WILLIAM J. FALLON
PRESIDENT OF THE NATIONAL ACADEMY OF ARBITRATORS
1985
INTERVIEWED BY JAMES L. STERN
AT
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Stern We are attending the 42nd Annual Meeting of the National Academy of Arbitrators at the Chicago Hilton & Towers in Chicago Illinois. It is Tuesday May 30th. My name is Jim Stern. I'm interviewing past President Bill Fallon who was President of the Academy in 1985. This project is sponsored by the Academy History Committee in order to preserve the account of activities and the background of the Academy Presidents. Let's start right off Bill with your personal background. Will you indicate where you were born, raised, educated and so forth please?

Fallon I was born in a small town in Massachusetts called Fitchburg. I was raised there for 10 or 12 years. We moved to a farm in Lunenburg, Massachusetts where I had the good fortune of growing up and being educated at the St. Burnet's High School.

Then I went into the Service following my graduation from high school. I went into the Army Air Corps as it was called in those days. I spent four years there and became a navigator on B-24's. I had an unfortunate accident over Pueblo, Colorado where I lost my oxygen mask and developed, what was then, one of the first cases of high altitude sickness. I spent the rest of the two years of my service in various hospitals throughout the country. It worked out well. I was able to recover fully and go on to college where I attended St. Michael's College in Vermont. After graduating from St. Michael's, I went to Boston College School of Law. I transferred after one year of days to Suffolk University Law School where I worked during the day and went to school at night. I was fortunate enough to graduate from St. Michael's with Magna Cum Laude. I attribute that to the fact that my wife was very helpful in keeping me at the books. Prior to becoming an arbitrator I obtained employment with the Commonwealth of Massachusetts Board of Conciliation and Arbitration as a mediator. I was going to law school at nights and acting as a mediator during the day. I had a wonderful education in the mediation process from some of old time mediators

with the Board who were invaluable in giving me insights into ~~the~~ collective bargaining process. It was a wonderful learning experience.

Stern Would you put a year on that?

Fallon I started in 1951 as a mediator. I think it was January of 1951. In 1957 I was appointed Chairman of the Board of Conciliation and Arbitration where my arbitration career really began. I was able during my career as a mediator to sit in on arbitrations with the Board and observe the process. I didn't come into the Chairmanship without some background in arbitration, although I had not decided any arbitration cases. Excuse me. That's wrong. I was selected as arbitrator in a number of disputes before I became Chairman of the Board of Conciliation. Out of state management and labor organizations had selected me. So I did have some actual experience in arbitration.

Stern Were you on any panels during that period?

Fallon No. I was not on any panels at all.

Stern Not on F.M.C.S. roster?

Fallon

Not on F.M.C.S. roster, no. This was just people who knew me from my attendance at various labor relations seminars and mostly in the Connecticut, Rhode Island, New Hampshire, Maine and Vermont area. As Chairman of the Board, I was instrumental in establishing the first opinions of the Board. This was 1957. The Board had been established in 1886 and it had never written an arbitration opinion. As a result the Board had developed a reputation of being a political board and that political favors were doled out which was not the case. It was not true. Not to the best of my knowledge was it true. The reputation was there because there was no explanation for the rationale of the decision. People who were losers ordinarily looked for some excuse. The excuse was that this was a political board. I decided that the best thing that I could do for the integrity of the process and the integrity of the Board was to start issuing opinions. My two colleagues voted against it. So for the first year I issued the Chairman's opinion. My two colleagues would join in the award but disclaim any part of the Chairman's opinion. During that period of time we were deciding about 150 to 200 cases a year at the Board of Conciliation.

Stern Were these mainly interest disputes, Bill?

Fallon No. They were mainly grievance disputes. Most of them were in the shoe industry. Most of them were piece work disputes in the shoe industry, which were a little like an interest arbitration. There were no interest arbitrations while I was Chairman of the Board. They were all grievance arbitrations.

Stern How long did you stick as Chairman?

Fallon I stayed there until 1961. I gave my notice in 1961 to the Governor. I indicated that I wanted to go out and try to become a neutral arbitrator. I had received a lot of support from Saul Wallen, who was a very good friend. He indicated that I should be able to succeed. I really had to do something at that time because I had 7 youngsters and they had a nasty habit of eating 3 times a day. I couldn't break them of that habit so we had to go out and get some revenue. Hopefully I was going to be able to do much better as a private arbitrator than I was doing at my State job, which I hadn't had a raise in about 10 years.

Stern What happened that first year out?

Fallon My first year out was unbelievable. I took off like a rocket. One of the concerns I always had was "you're just not going to get the cases." What happens then? I had offers from labor and management while I was on the Board, but I always had in the back of my mind that I would like to try the neutral postuure. I was rewarded tremendously. It was nice also to know, as Saul Wallen had told me, if at any time I had problems getting work just let him know and he would work something out with me. I never had to go to Saul for that. I kept getting busier and busier as time went on. It worked out very well. I came into the field at the right time I think.

Stern When did you join the Academy?

Fallon I joined the Academy while I was still a member of the Board in 1959. I know Saul Wallen was a member of the Academy. He had been President in 1954. Saul was the one who suggested to me that it might be a good idea to join the Academy.

Stern So you had been a member of the Academy all during

the term you were Chairman?

Fallon Well not all during the term: 1959 through January 1962.

Stern It was Saul who recommended that you join the Academy?

Fallon Yes. Saul and Jim Hill as well. I think Howard Myers also.

Stern In terms of your joining, were there the same procedures in effect, then as there are now? Did you have to have 50 and 5 and lots of forms and lots of references?

Fallon There couldn't have been the same procedures, Jim, because I was accepted on my first application. At that point in time I had something close to 500 cases on the Board,, but those were not direct selections of the parties. They must have counted them differently in those days. I think it was mainly because of that very high caseload. I did have about 50 or 60 cases on my own, outside of Massachusetts.

Stern Before we talk about your activities within the Academy, let's make sure that we've covered everything outside that you want to mention. Essentially then you became a full-time arbitrator in the early 1960's and have continued in that role since.

Fallon Actually, I would say that my Chairmanship was as a full-time arbitrator as well because that was 90% of the work of the Chair was to decide arbitration cases for the Board. I really had been full-time since 1957.

Stern Ad hoc on your own since the early 1960's.

Fallon Right. Correct.

Stern Okay, well let's talk then about the Academy from now on. After you got into the Academy in the 1960's, do you recall anything about your first meetings or when you got a committee assignment?

Fallon I don't know what my first assignment was, but I think it must have been to the Membership Committee. Over the years, I think I served on the Membership Committee about 10 years. It was a

delightful experience. It was a very enlightening experience to look at the credentials of people who were coming in and to welcome them into the Academy. It really was a most enjoyable experience working under the likes of Ralph Walton who was Chair of the Committee, Mark Kahn, Jack Dunsford and Larry Seibel. Even last year I filled in on the Membership Committee in the absence of the member who was not able to make it. I still enjoy very much the work of that committee.

Stern This wasn't right away then because it wasn't during Sandy Porter's term as Chairman or Al Dybeck's term as Chairman. Do you remember who was the first Chairman? I'm trying to place it in history.

Fallon I think it was Larry Seibel. I'm not sure.

Stern So a researcher reading this tape later on would have to look up when Larry Seibel was Chairman of the Membership Committee. What is your guess?

Fallon I would guess it was probably in the early 1960's.

Stern What are some of the other positions you have held

in the Academy leading up, of course, to President Elect?

Fallon I was a member and eventually Chairman of the Committee on Professional Responsibility and Grievances. I served for a year or two on the Sites Committee under Tom Roberts. I was a Member of the Board of Governors for, I think, 5 years. For some strange reason I filled out someone's term for 2 years and then was elected on my own for 3 years.

Stern That's unusual.

Fallon It is unusual and to this day I don't know why. It gave me a wonderful insight into the workings of the Academy and the concerns of the workers of the Committee.

Stern Do you remember about what years you were on the Board of Governors?

Fallon Only that it was in the early to mid 1970's.

Stern In terms of the President Elect which we will move to unless there is something else you can think of

in terms of your other activities before becoming President Elect.

Fallon I was also Regional Chairman for Region 1 for several years. I think that that covers the various positions I had except for Vice President for 2 years.

Stern We better get that in. So you were Vice President for a couple years after that 5 year stint on the Board. Let's turn next to the President Elect. It says how were you nominated which is a very interesting question.

Fallon That's a very interesting comment because there was a fellow that gave me a call on the telephone whose name escapes me at the moment but he happens to be sitting across from me. James Stern was the Chairman of the Nominating Committee. He called me out of the blue. I hadn't expected it at all. I'm not positive what I said. I was elated but I said "can you give me just a half and hour or so to just digest this and I'll call you back." I think that's what I said but you can confirm.

Stern I think your recollection is correct. You were

obviously very pleased. You thought about it a reasonable but short length of time and then agreed.

Fallon Absolutely.

Stern Do you remember the duties?

Fallon As Bert Luskin indicated, the duties were to serve as a member of the Executive Committee of the Academy and to be an apprentice to the President. Mark Kahn was the President at that time I believe. Then Jack Dunsford. The position I recall is President Elect for a while. Then you become President Elect. Then you become President. Then you become Past President. All this time you are a member of the Executive Committee appointed by the then sitting President. There weren't any duties as such other than to vote on the matters that came before the Executive Committee. Sometimes there were very important matters that came before the Executive Committee. One of which I recall when I was President. We had a question of a member who had failed to follow the procedures for applying for legal reimbursement for being either called as a witness in an arbitration case or named as a

defendant in an arbitration case. This person had blatantly refused to call the American Arbitration Association. That's one of the first requirements to be eligible for legal reimbursement. The Executive Committee had to vote on that question. They were the final decision maker on whether or not the denial would be upheld or set aside. They voted to uphold it. There were a lot of other items that came before the Executive Committee but at this moment I don't recall them to any particular degree of clarity.

Stern Do you share Bert Luskin's opinion that the system we have is a good one and an important one?

Fallon Absolutely. I certainly do. As President Elect you have an opportunity to see how you are going to be required to act as President. It is a wonderful opportunity to get a good grounding in the kinds of experiences that you're going to be confronting on your own a year later. When Jack Dunsford was President, when I was President Elect, he was most kind in copying me on all of the correspondence that he had with everyone. The correspondence differed when I became President. There were different people, different problems and different

concerns. The helpfulness of being able to see how Jack handled the particular problems was most beneficial as President. So I do share Bert's assessment of the value of the President Elect Office.

Stern

It's during that period that you started to think about committee appointments. Do you want to tell us a little about this? Was this difficult? When did you start picking your committees? How does that work?

Fallon

That's probably one of the most difficult things the President has to do. You do a lot of thinking about it as Vice President. There is also a little bit of balancing there. You don't want to interfere with the committee assignments that are already in existence under the current President. You've got to go and talk to people at that point in time. At least I didn't feel that I could talk to people about their willingness to accept appointment on various committees. Moreover, you have not received the selection sheets from your members which indicate their desire to serve on various committees. That has got to be given and was given a great deal of weight in my

determination of assigning committee personnel. The sheer volume of committee assignments, I think there was over 250 various positions on committees at the time when I was President. The spotting of people in those committees with an idea of keeping continuity on the committee for a continuing efficient operation and at the same time rotating people in, off and on to committees was a very time consuming thing that took enormous amounts of time. Then when you started to make the calls, there were quite a few that weren't able to accept assignments to the various committees. There was a concern of the President about getting his committees all lined up in a timely fashion.

Stern

A couple of other things about the work while you were President Elect. Do you recall that this took a lot of time and did this affect your caseload at that stage? Or did it not affect your caseload until you became President?

Fallon

It didn't affect my caseload at all as President Elect. The responsibility was Jack's. I was just carrying his bag so to speak and watching what he was doing. It did not interfere with my caseload at all as President Elect.

Stern A final question about the President Elect period. If we name someone* as President Elect tomorrow and he comes up to you as says "what are your suggestions? What should I be careful about? What should I do?" What advice would you give him?

Fallon I would advise him to keep in very good graces with the President and to learn as much as he could about committee assignments and the positioning of people on committees;. The number of years they have been on committees. That is homework that you can do as President Elect that will serve you in very good stead when you come to make those committee appointments on your own. President Elect is really a learning opportunity for what is in store the year hence.

Stern Well let's turn then to what was in store. I guess the first thing we ought to start with is what you considered to be the major goals as you took office. What were your goals and what were your big problems?

Fallon The goals, Jim, were multiple. Principally the Academy is a guardian of the arbitration process and in essence of the free collective bargaining

process of which arbitration is an adjunct. I was most interested in assuring that we as an Academy were going to promote the free collective bargaining process and arbitration. One of the newly formed adjuncts of the Academy was the Research and Education Foundation which was just then getting started. I was most interested in promoting the Research and Education Foundation. For the Legal Representation Committee, which had only a year or two under its belt at that time, I wanted to be assured that that had a firm financial base from which to operate. Those were generally the interests that I had at the time.

Stern For the record let's pin down a couple of things. Who was heading up the Foundation?

Fallon Alex Elson was heading up the Foundation.

Stern One of your major interests was to get Alex and his Foundation going.

Fallon Absolutely. They had their first meeting. The voting members of the National Academy of Arbitrators are the voting members of the Foundation. The voting members of the Academy

which includes the Board of Governors: the Vice Presidents, the President, and the ex officio member of the immediate Past President. Those are all the voting members of the Foundation. We had our first Foundation meeting when Alex Elson took over as President of the Foundation and converted a meeting of the Board of Governors into a meeting of the Foundation. I think that may have been in St. Paul at the Continuing Education Conference that we had at midyear, or it may have been in Philadelphia. I'm not sure, but it was at one of those meetings that we had the first meeting of the Foundation.

Stern The Legal Representation Fund which we haven't talked about, maybe you should take a moment and say who was the Chairman of that and just what its function was. I don't think that it has been covered yet.

Fallon Nate Lipson was appointed by myself as Chair of the Legal Representation Committee.

Stern That had been started beforehand that wasn't it?

Fallon Yes, that was started 3 or 4 years before when the

Committee voted against going the insurance route and went the self insurance route. It has worked out very well.

Stern Your concern there was mainly making sure it stayed on a solid track.

Fallon Absolutely and on a sound financial base. It has stayed on that sound financial base right up to the present time. Nate Lipson is still the Chairman of that Committee.

Stern Our next question asks you what do you think has been your greatest accomplishment?

Fallon Becoming President of the National Academy of Arbitrators, I think, was my greatest accomplishment. I was also most pleased at one of the things that we did during my term as President. That was to file the first Amicus Brief with the Supreme Court in the AT&T Technologies case. To have a unanimous decision of the Supreme Court come down in support of the position of the Academy and literally lift sections of the Academy brief as part of the decision in that case was a remarkable feat for the Academy. It made me feel very good as

well.

Stern I would think so. Do you recall who you had assigned to develop the brief?

Fallon Dave Feller. Dave Feller volunteered. He had a lot of advice about the brief. In fact it was an Executive Committee decision that we would file the brief. Bill Murphy was very helpful on that. Jack Dunsford and Nate Lipson participated in that. Ted St.Antoine also participated. I recall Ted was Governor at the time. He was very helpful in recommending that we go on this particular case. Of course Daves Feller was invaluable in volunteering to do it for free for the Academy.

Stern What about your greatest disappointment?

Fallon I didn't really have any great disappointments. I was hopeful that we would be able to have a policy handbook which we have been talking about for years and years. I thought that we were going to be able to get it accomplished in my term as President. It still hasn't been accomplished unfortunately, unless it is coming in this year.

Stern Well we have a Committee on Committees which is still talking about this idea.

Fallon We really do need a policy handbook. It would be invaluable for a President and for a Secretary/Treasurer to have ready access to it.

Stern Was there any effect on your caseload while you were President? Did you have to cut back or what?

Fallon Yes, I took my name off all of the lists that I was on: F.M.C.S., A.A.A. and lists throughout the country. I would say that probably I had a 25 to 30% reduction in caseload during that period of time. Part of it was due to illness, which I had picked up a pneumonia bug in January of my Presidency. It lasted for about 2 1/2 months. That was not very helpful to the caseload as well. I'm not sure that my 25 or 30% is entirely attributable to the Presidency.

Stern What do you think took the most time while you were in Office?

Fallon The day to day operation of the Academy. There was always another telephone call or another letter

that has to be answered. A concern deeply felt by a member which may be precedent setting and may be very picayune but to that member it's a very important matter. You have to address it. We did. We did the best we could on a daily basis with the help, thank God, of that great Academy member Dallas Jones. He was just such a stalwart.

Stern Our outline indicates that you might give a view on what committee or what committees you think are most important when your appointing a Chairman.

Fallon I think that all of the committees are important because the committees are the way the Academy functions. Without good committee work the quality of the Academy's work is going to suffer. I think that Research, Education, History, Membership, of course, and Professional Responsibilities and Grievances are incredibly responsible positions on committees that have great responsibilities for the good functioning of the Academy. I would say on the basis of the members selection, the most important committees are Membership and Professional Responsibility and Grievances because we usually have a hundred or more first choices on both of those committees coming in from new

members. You can only appoint 9 or 10 of that 100, so you're going to be disappointing a lot of people in making committee assignments.

Stern I recall your Presidential speech on humor. I will take this opportunity to put into our history the fact that I thought it was an excellent one and enjoyed it very much. I would list that as one of your great accomplishments.

Fallon Thank you very much Jim. I appreciate that. That speech was not the speech that I really intended to give. I had another subject that I wanted to talk about but I had to think about the people sitting there listening to this dull subject that was of interest to me but probably wouldn't be of interest to them. I decided that I'm going to give this speech for the membership and for the guests that are in the hall.. That was the reason why I switched, at almost the last minute, to a dissertation on "Humor in the Arbitration Process."

Stern I think it was an excellent choice but this does raise the question that may be we should convert our programs in some way so that the President can

give a serious address on a topic of interest to him during a regular part of the program.

Fallon I have made that suggestion myself, Jim, a couple of times on the fill-out sheets that we have at the end of the conference. I do think it's a delicate balance that a President has to weigh when he wants to do something for posterity but at the same time he wants to avoid the members and guests who have been sitting on their posteriors for 3 or 4 hours by the time he starts to speak. That kind of a concern played a great part in my decision, obviously, to ~~speeik~~ as I did on humor.

Stern Do you find the design of our annual meeting, when you were President, to be a very time consuming chore?

Fallon No. I did not. I thought that I would but you are on such a high from all these accolades that you have received from so many people for a great meeting that you can take anything during an annual meeting. I didn't, find that to be a problem at all Jim.

Stern Talking now about the* Presidency and the future and

the Academy generally, what do you consider as the most important qualification for an Academy President and, it says here, suggestions for future Presidents? I don't know what that's all about do you, suggestions for future Presidents. We're not suppose to sit around here and name who we think ought to be President.

Fallon

I don't think that's what the purpose of that is at all. I think that question is designed for some of us who have been through it to give a little insight to future Presidents as to what to be aware of, or look out for, or be careful about, or enjoy. I would say that one of the qualities that I want to see in a President is a devotion to the Academy. That devotion to the Academy has got to be a demonstrated one. It's got to be demonstrated over a period of time with work on behalf of the Academy. I have said this so many times, and I feel embarrassed saying it again because it is becoming a trite expression. The huge amounts of time our members devote to Academy business is mind boggling to me. It's awesome and wonderful to behold. It makes the Academy the quality organization that it is. It's only that kind of real quality work going into committee assignments

and papers for the Academy that we're going to have the kind of Academy that we love and want and have had the benefit of ourselves over the years.

Stern

A final area here is the environment during your arbitration career. I think that's an interesting sort of area. I'm not sure where you want to start. Do you want talk about the 1980s? You were President during the years that Reagan was President. That was one atmosphere. Do you want to contrast that with what it was when you first went into the Academy? What would you like to say about this topic?

Fallon

I've been trying to think about what I wanted to say about this. I haven't really outlined it. I would say that during the periods I have been in arbitration we've had a lot of ups and downs in the economy. For some strange reason my caseload reflects the exact kind of economic development that we're having in the country. When there is any kind of a recession my discharge cases begin to skyrocket. The deeper the recession the more discharge cases I receive. I haven't done any study on this and I don't really know why it happens that way. I presume that marginal

employees can be better gotten rid of during a lower production time in a depressed economy than when people are in full swing and earning money hand over fist.

Stern That's an interesting observation. Anything else you want to say about the environment?

Fallon Unfortunately I think there was a deterioration in the public conception of collective bargaining following the Air Traffic Controllers' Strike in 1981 and the termination of those Air Traffic Controllers by ~~the~~ President. I have found myself much more in a posture of defending the collective bargaining process since that time than before that time. It was accepted as one of the truths and one of the principles of this country that free collective bargaining was a boon to this country up until that period of time. Since then we're constantly finding criticisms of the collective bargaining process and constantly finding ourselves defending it. I'm not sure that that is the exact time when it all began but it's the time that I recall the emphasis on and distrust of and wide spread criticisms of collective bargaining.

Stern A final question then, speculation. Do you think it's a down turn that will change?

Fallon I think it's already changed, Jim. I think it has already changed. I think that we're on an upswing at this point in time. It was during this period that we went from private sector arbitration being 100% of the work to public sector arbitration being a good percentage if not half or more of the work. That trend is going to continue. I think that the future for collective bargaining is very good. We have got to continually emphasize the educational process of what collective bargaining is all about. Why it is good for the country and why it has been incredibly beneficial to this country. I think that educational process is on-going and can never be curtailed.

Stern Thank you very much. That's probably a good place for us end. On behalf of the Academy History Committee I thank you, and personally I thank you. It's been fun talking with you.

Fallon Thanks so much, Jim. I appreciate it.