

National Academy of Arbitrators
HISTORY COMMITTEE INTERVIEW

William P. Murphy

NAA President, 1986

Interviewed by Marian Warns

May 31, 1989

WILLIAM P. MURPHY
PRESIDENT OF THE NATIONAL ACADEMY OF ARBITRATORS
1986
INTERVIEWED BY MARIAN KINCAID WARNS
AT
THE CHICAGO HILTON 6 TOWERS, CHICAGO, ILLINOIS
MAY 31, 1989

Warns

We are attending the 42nd Annual Meeting of the National Academy of Arbitrators in Chicago Illinois at the Chicago Hilton & Towers. It's May 31st, 1989. My name is Marian Warns. I'm interviewing William P. Murphy who was President of the Academy in 1986. This project is sponsored by the Academy History Committee in order to help us preserve the account of activities and backgrounds of various past Presidents. Bill, I know that you went to the University of Virginia. Were you born in Virginia?

Murphy

No Marian I was born and I grew up in Memphis, Tennessee. I went through the public schools there. I went to what was then called South Western College in Memphis. I graduated in 1941. I did 4 1/2 years in the Navy. I was pretty active in college. I was editor of the school paper. I

was President of what we called the Literary Club and the International Relations Club. It was a very small college. It was about 600 students. It was a small liberal arts college but everything was top quality. I got a lot out of my college.

Warns You really sometimes establish a reputation that way.

Murphy I have to say I did graduate with honors in Political Science..

Warns Great.

Murphy When I went into the Navy my thought was if it hadn't been for the War my ambition was to do graduate study and get a Ph.D. and teach Political Science. During the Navy years I was so in contact with a lot of lawyers. When I got out of the Navy after the War was over, I used my G.I. benefits to go to law school. I still didn't give up the idea of becoming a professor. After 5 years of varied experiences as a lawyer after law school, the original yen to become a teacher came back to me. Only this time it was to be a law teacher instead of a Political Science professor. I went into

teaching in 1953. I've been a law professor ever since. I taught at the University of Mississippi and the University of Missouri both for 9 years. Then I moved to the University of North Carolina in 1971.

Warns Did you have any break during that time in your University practice? Did you go and have any outside employment or did you stay with the University during that time?

Murphy You mean after the* Navy?

Warns Yes.

Murphy My first job after law school I was a Law Clerk to a United States Circuit Judge in the Sixth Circuit. Then he steered me to his son's law firm in Memphis. That didn't work out because it was mainly a real estate practice which didn't interest me one bit. I then went in 1950 to Washington as an attorney for the United States Department of Labor. I was in the Washington Office for about 9 months. Then I transferred to a Regional Office in Nashville, Tennessee where I could get some travel experience. I was there for almost 3 years. It

was in the Fall of 1953 that I planned to go to Yale Law School to do graduate study and then to go into a law teaching career. I got diverted that year and went and taught at the University of Mississippi that year. Then I went to Yale the next year. After a year's graduate study at Yale I went back to Ole Miss and stayed there until I moved to Missouri. I did have 5 years practical experience, most of it in the labor field, before I went into law teaching.

Warns

How did you happen to get interested in arbitration? Did you have someone whom you knew that became a mentor?

Murphy

I explained this in my Presidential address in New Orleans two years ago, but I'll say it again now. I got interested in arbitration when I was doing graduate study at the Yale Law School. The Dean of the law school at that time was Harry Schulman one of the great names in labor arbitration. At that time he was permanent on file for Ford and the U.A.W. He not only taught labor law at the law school - I took his course in labor law - but he also had a seminar in labor arbitration in which he used his cases as the basis of the seminar. That

was my first introduction to labor arbitration. I couldn't have had a better one than from Harry Schulman. As I said in my Presidential address, I've been hooked on labor arbitration ever since. I also took a course in commercial arbitration from a former Dean of the Yale Law School named Wes Sturgess. Both of these people were responsible for my getting interested in the arbitration process. It just so happened that both of them at that time were officials in the American Arbitration Association. They were instrumental in getting me on the roster without ever having heard an arbitration case on the basis of my labor experience with the government and so on. I went back to Mississippi and I was on the A.A.A. roster. It took me over a year to get my first case. That's the way I got started. I couldn't really claim that Harry Schulman was a mentor in the sense that we use the term today but he was the one who really was responsible for my getting interested in labor arbitration. He instilled in me the ambition to become a labor arbitrator.

Warns

You certainly couldn't have had any better person could you?

Murphy I know that. I was mighty fortunate.

Warns Did you find that once you started getting cases that this was a burden when you were also teaching?

Murphy No, not really because at every law school where I have taught they have been kind enough to schedule my classes to give me at least one free day a week when I could go off and hold hearings. That did that for me at Ole Miss, at Missouri, and they did that for me at North Carolina. It never has interfered. I've always considered myself to be a law professor first and a labor arbitrator second. I have never, and I'm proud of this, I have never in all the years I've been arbitrating missed a class because of a labor arbitration.

Warns That is unusual. I should think so. How long did it take you to build up a caseload?

Murphy It took quite a while because as you, and I suppose everybody, knows the state of Mississippi was not a place in the 1950s where the union movement was very strong or very popular. There just weren't many collective bargaining contracts around. In fact that was true not only in Mississippi but the

whole South at that time. It still is true to some extent but even more so then. In the geographic area where I was being circulated on A.A.A. lists there just wasn't that much arbitration going on. As I said I had to wait a year after getting on the roster to get my first case. It was in Memphis. We always remember our first case. I had a flat tire on the way driving from Oxford, Mississippi to Memphis. I got out and fixed the tire myself. I walked in the hearing room and I had grease on my shirt and my hands and it happened to be an automobile workers' case.

Warns

That was fortuitous.

Murphy

That was in 1956. I had my first case. Then I had to wait I don't know how long after that. I picked up a case somewhere over in Arkansas. Then I picked one up in Birmingham. Then one down in Louisiana. The main obstacle to my getting started was my geographic location. There just wasn't that much going on there. After I moved from Mississippi to Missouri then it really began to pick up. Both St. Louis and Kansas City were big union towns then. I. could arbitrate all over the Midwest area where there were a lot more cases.

Once I moved from Mississippi to Missouri, my caseload began to burgeon.

Warns Was all that mutual choice or did you get on federal roster?

Murphy Yes, after I picked up about 5 or 6 A.A.A. cases I did get on the F.Mi.C, S. roster. That helped me get cases once I moved to Missouri. I was picking up cases from both F.M.C.S. and A.A.A. once I moved to Missouri.

Warns Then I expect it just snowballed for you. How did you happen to become a member of the National Academy?

Murphy When I first started arbitrating I'll have to admit I don't think I had ever heard of the National Academy of Arbitrators. If it was mentioned while I was at Yale it didn't stay with me. Of course after I had been arbitrating for a little while then I began to look at the literature in the field. Then I became aware that there was such an organization. I suppose I had it in the back of my mind to become a member at some future time. It was after I left Mississippi and went to Missouri

that I first began to seriously think about becoming a member. I found out about the Academy from Ben Aaron. Ben and I had been good friends in a group of academics called a labor law group which produces teaching materials for labor law courses. I knew Ben had been President of the Academy in 1960. Ben was my original source of information about the Academy. He was the one who encouraged me to apply for membership. He also gave me a very good piece of advice. He asked me how many cases I had. I told him and he said "well Bill, I think you better wait a while before you apply; otherwise you will get turned down and be disappointed." That was a good piece of advice because I did wait until I was sure I had more than enough cases under the guideline at that time. When I did apply I was admitted. I wasn't continued for a year and then deferred to get more cases and what not. I did get admitted in 1966. That was the year I got admitted to the Academy.

Warns Were the requirements then for membership very different than they are now?

Murphy My recollection is that they were on what we call the "5 and 50 rule". Of course today nobody gets

admitted with just 50 cases. My recollection was that at the time I got admitted I had somewhere in the neighborhood of 70 to 80 cases. I had been arbitrating at that time for 12 years. My caseload had been increasing everyone of those 12 years. I didn't have any problem getting in. I went to my first meeting in Cleveland, Ohio and it almost killed my interest in the Academy. Today we make the new members feel welcome with all this new member orientation program and what not. They didn't have anything like that then. I remember I went to this meeting in Cleveland. Here were all these people whose names I was familiar with. I didn't know any of them and they didn't know me. As I recall there wasn't even any introduction of new members. I just felt like a wall flower the whole time. I don't even think I stayed for the whole meeting I felt so unwanted and unknown. I went home and told my wife "I don't think I'm going to go back to those meetings anymore." I didn't for a few years. Then when I did go back I knew more people. I sort of mixed around a little more. The still didn't have any new member orientation program. At any rate there were more people that I knew. They made me feel at home. I had such a good time I went back home and told Joy "Honey,

this is a good meeting, we're going to go from now on." We haven't missed one since. That's the way it got started. That's why I was so enthusiastic I was Co-Chair with Jack Dunsford of this Future Directions Committee that recommended this new member orientation program. That's why I think it's such a great improvement. The new members are made to feel welcome and wanted from the very beginning. It wasn't that way when I got in.

Warns What was the first job that you had with the Academy?

Murphy I think the first thing I was asked to do was to – I can't remember the sequence of these – be on the Membership Committee back in the early 1970s. I was on the Membership Committee. Then Rolf Valtin, as I recall, asked me to Chair the Law and Legislation Committee. I think those were the first two assignments I had. Then I served on a couple of special committees that presidents appointed. I know Dick Mittenthal put me one. I can't remember what the special committee was about now. I guess that maybe one of the best things that happened to me was at the Puerto Rico meeting back in the 1970s. Ted Jones at that time had been

putting out a little communication Xerox thing for the membership. They decided that year to start The Chronicle. Of course everybody knows what The Chronicle is now. It has been such a success story. When it first started out nobody knew exactly what direction The Chronicle was going to go. Ted was in charge of it. He asked me if I would take over and be responsible for a column called "Arbitration and the Law." I agreed to do it. I wrote it myself personally which I did most of the time. If for some reason I was too busy I would get somebody else to write the column. Mainly I wrote all of those for about 10 years. It was through that, column that everybody in the Academy got to know who Bill Murphy was. It turned out to be one of the luckiest things that happened to me because it brought me to the attention of the membership in a very favorable way. I like to think that those columns were a very constructive contribution to their understanding of the problems of arbitration so far as the court decisions were concerned. I just loved doing them. I couldn't even begin to count the number of times that at annual meetings people I didn't even know would come up and say "I. sure do enjoy your column in The Chronicle." It really made me feel good.

Warns That's a wonderful contribution.

Murphy At any rate the next thing that happened was I got nominated to be on the Board of Governors. I served on the Board of Governors. Then I got nominated for Vice President. I served as Vice President. Then I was a Co-Chair of this Futures Directions Committee along with Jack Dunsford. It was a 2 year committee. I must say that I Chaired it the first year and Jack Chaired it the second year which is when most of the work got done. It was really more Jack's baby than it was mine. At any rate I helped a little bit. Then Jack asked me to be Program Committee Chairman the year he was President. I did that. I'm forgetting something along in there. I can't remember what it was, another assignment I had. The next thing I know I've been nominated for President.

Warns That was pretty fast. Did you have any active regional groups at that time?

Murphy No. The Southeast Region is the biggest region geographically that there is. It just spreads all over the Southeastern United States. For several years they were having those regional meetings in

Florida. That was just not a convenient place for people up in North Carolina and Tennessee to go to. We meet in Atlanta now. We meet in Atlanta now because that is an easy place to get into for everybody in the Region. I was not particularly active in the Region in the early years. Since they started meeting in Atlanta I think I have been on the program most of those years in Atlanta. We just have the one meeting a year. I guess you could say I have been active in the Region for about the last 5 or 6 years.

Warns

We all know that once you start accepting the responsibility, this entails a great deal of time. Did you find that this was difficult along with your teaching and your arbitration and your activities that I know you engaged in?

Murphy

I did continue to teach full-time. I do have some standing lecture commitments, several each year of which I did not cancel. I did voluntarily cut back on my arbitration caseload. I didn't do what Byron Abernethy did. I understand he gave it up completely for a year. I didn't do that, but I did cut back some on it.

Warns

I think people need to understand that our President and our Officers do contribute a great deal of their time at cost to themselves.

Murphy

I'll tell you Marian, it really took up a little bit more of my time than I thought it would. I knew that it would take up some time. It ended up taking you might say 25 to 30% more of my time than I had thought it would. Not a day passed during that year that I didn't spend at least some time during that day on Academy business. It might have been phone calls. It might have been correspondence. It might have been something else that I was trying to do. Not a working day passed that at least part of it was not spent on Academy business. Some days a substantial part of it was spent on Academy business. Of course there would come times when you would have to block out a whole week for the Academy. It is demanding in that particular year. Of course on top of everything else I do, it was probably the busiest year of my professional life. I must say it was also probably the most exhilarating year of my professional life. All of the Academy work is . . . Well some of it is important and some of it is sort of trivial but it has to be done. Whether it's important stuff or

low level stuff you're dealing with people that you like and enjoy. They are very cooperative people. I can honestly say that it was a wonderful year. I just wouldn't trade anything for it. I like to think that I did a good job.

Warns What exactly are the duties of the President Elect in the Academy?

Murphy Well we have a pretty good system. The President Elect is an ex officio member of the Board. You sit as President Elect in on all of the meetings so that when you take office as President you know what the agenda is. You can hit the ground running so to speak and you don't have to learn it. Then after you've been President for a year they keep you on the Board for one more year on the theory, at any rate, that your experience during your Presidential year will enable you to contribute to the problems of the year following the presidency. You actually serve a 3 year term: President Elect; then President; and then President Emeritus on the Board. It is a 3 year stint. I think it is a very good system not only for breaking the President in but using the President for 3 years instead of just one.

Warns It provides continuity.

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Murphy That's right.

Warns You have a number of years before you actually became President before you were making a large contribution.

Murphy I had the 3 years on the Board as a member of the Board of Governors. Then I was Vice President. Then I was President Elect. I was very familiar with the Board of Governors proceedings.

Warns When you became President and you have some time to think about the goals you want to establish for your term of office, did you have any particular thing in mind?

Murphy Well I did because it just so happened that the year I was President which was from 1986-87 we commemorated the 40th anniversary of the founding of the Academy. The very first thing I did was get in touch with the local Arrangements Committee Chairman who was John Caraway in New Orleans where we met that year. I told John that I wanted to make sure that the 40 th Anniversary was

commemorated. It was. If you went to the New Orleans Meeting you remember how John Caraway commemorated our 40th Anniversary. To a certain extent to, it was reflected on the program. Rich Bloch was my Program Committee Chairman. The fact that it was the 40th Anniversary sort of predestined what the subject of my Presidential address would be which if you remember was sort of a historical survey of how the Academy and the profession of labor arbitration got started. I traced it on up to the present time. I hit a lot of the highlights in the history of the Academy. I didn't have to wrestle with the problem of what was to be the subject of my presidential address. It was just sort of picked for me. That was one thing was to celebrate the 40th Anniversary in a big way. We did succeed in that. There's no question in my mind that we succeeded in that. Another thing that I wanted to make sort of a centerpiece of my administration was I created this special committee on the present status of professionalism. I appointed 6 past presidents to give a report on professionalism. They did give a report and we had a very lively discussion at our annual meeting about it. I feel in my own mind that the creation of that committee and the stimulation of discussion

on professional practices is to a large extent responsible for the fact that we are paying so much attention to that subject at all of our annual and regional meetings today. I like to think that I'm partially responsible for that emphasis that we are now placing on it through my creation of this special committee and the report which that committee made. I'm very proud of having done that. The third thing I think that I would identify that was accomplished during my term - and I can't take credit for initiating it because the project was initiated by my predecessor Bill Fallon - was a two year committee which was created by Bill Fallon which finally made its report during my year as President. That was a committee that Mickey McDermott Chaired and Rolf Valtin and Al Dybek were on it that led to the report that was adopted by the Board and the membership which we now have a permanent paid Secretary. That was accomplished as a joint project. Bill Fallon and I sponsored it which consummated during my term as President. It fell to Mickey McDermott and me to make the presentation to the membership meeting at which that recommendation was ratified. That was a major structural accomplishment that was consummated

during my year as President.

Warns During this time, was the membership of the Academy growing rapidly?

Murphy Yes. I think the year I was President I must have submitted membership certificates to almost 40 new members. Thank goodness they all didn't take 5 minutes talking about themselves or we never would have gotten through the membership committee meeting. We had a big class that year. There is another thing I would like to mention that I'm responsible for in this Academy and I should have mentioned it earlier. It was the year I was Program Committee Chairman when Jack Dunsford was President. We met in Seattle. We started the practice of giving pins and certificates to our 30 year members. That was my brain child. I thought up that idea and I presented it to the Board of Governors. They approved it. We started it that year. Rich Bloch as I recall awarded the certificate and negotiated for the little pin which we now give them. I'm proud of the fact that that program came out of my mind. Now it is a well established thing. One of the highlights of our annual meetings is the presentation of our 30 year

pins. Jack Dunsford and I are probably the only ones who remember who thought up the idea. Since I'm on tape I want to claim credit for that right here and now so everybody will know.

Warns

I know with this experience that you had and the experience you have had since in advising subsequent presidents, what do you think should be the basic qualifications for someone so far as having done prior work in the Academy to become elected President?

Murphy

I guess the answer is kind of obvious Marian. A record of service to the Academy which demonstrates an interest in or a love for the Academy that is a willingness to do the work and what not. Certainly nobody should ever be appointed or elected President who hasn't worked his way up to it and earned it so to speak. I guess you also have to have the reputation of being a pretty good arbitrator. Presumably that's been settled when you got admitted in the first place although there are a few about whom I have my doubts. I think the answer to the question is really kind of obvious: a demonstrated dedication to the Academy and what it's all about, demonstrated by a willingness to

perform and an actual record of performance. There are never any dearth of people who are qualified to be President. There are always more people who are eligible to be President than can be President. That's why when the lightning strikes you . . . I remember when Rich Bloch who was Chairman of the Nominating Committee called me on the telephone I was out in the back sawing down some dead tree limbs. I came in to the phone and Rich told me that they are nominating me for President. Your first thought is "why me?" Other people may have shared that thought "Why Bill Murphy?" You look around and you see how many good people there are and you do have to ask yourself how did I happen to be the one to be chosen. It is a proud moment. It's also kind of a humbling moment, to use a trite expression, but it's very true.

Warns It certainly is a result of the evaluation of your peers as to your importance.

Murphy That's what makes it such a joy to know that it is a peer judgment.

Warns I think we've been going through a period of change in the last few years. We've talked about it a

great many times at members meetings. What would you suggest for future presidents? Perhaps the directions in which to go to maintain the respect and the activity of the Academy in this area.

Murphy

Let me work my way up to your question by saying that one of the suggestions I would make to any future presidents is that the first thing that the President has to do is to get his committees in line. If you wait until you actually become President to start all of your committees you'll be all summer doing it. It delays the publication of the Directory. What I did is I started on my committees 3 or 4 months before I became President. By the time I actually became President, every single committee appointment had been made. All the committee chairs and all of the members of all of the committees knew who they were. It was all done before I became President. I would recommend that any future President make that his first order of business. Get your committees all appointed before you actually take office. Not all presidents have done that. I think they should. I would recommend that. So far as the future, I'm tempted to say "if it ain't broke don't fix it." We really are pretty much on target. This is one

of the most introspective groups I've ever belonged to. We examine ourselves regularly to the point of masochism. We're forever asking ourselves "are we doing this right? Are we doing that right?" I think by and large the way we operate is a very successful operation. We have a good committee structure. We do what needs to be done and we do it pretty well. I don't have any major suggestions so far as structure is concerned. Two things trouble me about the Academy. I don't really know the answer to either one of them. One is that the Membership Committee has to go by numbers. They pick people on the basis of how many cases and how many years. They do get some recommendations from some of the parties. But by and large there is no way to make sure that all of our members are in all respects what we would like for them to be. Everybody has his own list. Fortunately it's not too long of a list of people that you wish never had been admitted. I think anybody would agree with that. I don't know how to screen those people out. How to know in advance. A lot of people will always become members of the Academy just for the credential. That's why the Future Directions Committee made the recommendation that they have to come to at least one meeting and go through the

orientation process to become a member in the hope that they would be captured by the spirit of the meetings and keep coming back. I don't know the extent to which that has worked. I have the sense that we still have a lot of people who get to be members, come to the one meeting and then we never see them again. I honestly don't know how to deal with that. The second problem relates to those people who do come regularly. There is a fairly substantial number of members who believe that the Academy is a very undemocratic organization. You heard the member who spoke at the members only meeting this morning comparing us to the Soviet Union and Communist China. I think this is a false perception. In my experience this Academy is as an open an organization as any I've been connected with. The people who want to get involved and who want to work in the Academy. It is true we don't have as many committee slots as we have people who want to serve on committees. Some people apply for committees year after year and get turned down. So far as the democracy is concerned, there seems to be a feeling that there is a small insiders who pull all of the strings and make all of the decisions. That just simply isn't true. We have as much rotation in our committee chairs and our

Board membership and all of our offices, I believe, as any organization does. The nominating process, it's true, does present a single slate for the membership ratification. It has always worked pretty well. We've always ended up with good people. I do think that the Board of Governors should come to grips with this issue that this member raised this morning as to whether or not the Nominating Committee should be directed to propose a slate of one or more people for each office. It would not require any amendment to the Constitution or Bylaws. The Nominating Committee has the authority to do that now. I think that no Nominating Committee should take it upon itself to do it in any particular year without some direction from the Board or the President or the membership that this is what we want to do in the future instead of a single slate. I think that the member this morning was dead right in saying that that should be considered.. I believe that the Board has the responsibility to consider it, whatever they decide. They might decide we're better off doing it the way we've always done it. Or they might decide . . . But the matter should be fully discussed at the Board level and at a membership meeting. That's one thing that has to be done to

address this underlying perception that many members have that this is an undemocratic organization run by a small elite.

Warns

Perhaps some of the communication is not as good as it could be in order to do away with that impression. As you say, it needs to be confronted in order to do away with that dissatisfaction.

Murphy

Another thing that I believe presidents could do and I did this when I was President, I applied in my committee appointments a rule that presumptively anybody that had been on a committee for 3 years was ready to be rotated off to make room for somebody else. Our committees are about the only way that the membership has an opportunity to participate in the Academy. I spent many hours going over all the committee lists and tabulating how many years each member of each committee had served on the committee. Everybody who had been there more than 3 years I rotated off. I got a lot of kick backs from people who were taking it for granted that because they were on the committee they were going to be reappointed. I have no way of demonstrating this statistically but I think I probably appointed more new people to committees in

my year than may be had ever been done before.

Warns That's an interesting phenomenon that we have so many people who do want to participate.

Murphy That's right. Those are the long range concerns about the Academy. Of course there is nothing we can do about the apparent decline in the labor movement which is inevitably going to affect the labor arbitration profession. That's beyond our control.

Warns That's right. It has certainly changed over the last 10 years considerably. How would you say that the national policy has changed? Do you see any really significant changes in the national labor policy?

Murphy I think the decline in the labor movement is to some extent the result of all of the Taft Hartley Amendments in 1947. I think that the Taft-Hartley Law was passed largely for the purpose of containing a growing labor movement. It succeeded. It not only succeeded in containing the labor movement it has now gotten to the point where the labor movement has actually declined. In the

judgment of many people the National Labor Relations Act has become a bad joke. The National Labor Relations Board, at least during the Reagan years, has not been encouraging unions and collective bargaining but has actually been discouraging things. Apparently there is no desire to amend that statute in substantial ways to make of it what it was originally intended to be in 1935.

Warns

We would hope that in the future they would pay some attention to people like you who have had experience and realize the importance of it. We especially want to thank you for giving us the benefit of your experience with the Academy and letting us hear your personal reactions so that people in the future will know about these contributions and that they're not the only ones.

Murphy

I'm very complimented to have been interviewed. I've enjoyed it a lot.

Warns

Thank you Bill.