

APPENDIX C

NATIONAL ACADEMY OF ARBITRATORS

REPORT OF COMMITTEE ON LAW AND LEGISLATION

January 18, 1957

Arbitration Legislation: Uniform Act

On August 20, 1955, the National Conference of the Commissioners on Uniform State Laws adopted a draft "Act Relating to Arbitration and to Make Uniform the law with Reference Thereto", covering, in a single proposed statute, both commercial and labor dispute arbitration. This Act was approved by the House of Delegates of the American Bar Association on August 30, 1955.

At the January, 1956 Annual Meeting of the National Academy of Arbitrators, a Report of the Committee on Law and Legislation, headed by Russell A. Smith as Chairman was read and approved. The general conclusion of the Committee was that the Draft Act had many good features, but it was subject to serious objections as a statute covering labor dispute arbitration, primarily in its failure to restrict judicial review of Awards to the extent which is desirable.

A resolution was thereupon passed at the said Annual Meeting which read as follows:

NATIONAL ACADEMY OF ARBITRATORS RESOLUTION PASSED AT 1956 ANNUAL MEETING

At the January, 1955 Annual Meeting it was resolved that the Academy should refrain from taking any official position on the question of whether there should or should not be statutory regulation of voluntary labor dispute arbitration, but that the Academy could, consistently with this policy, indicate its judgment as to the desirable content of regulatory statutes. Since then the proposed Uniform Arbitration Act, covering both labor dispute and commercial arbitration, has

been promulgated. An analysis of this proposed Act by our Legislative Committee and certain of our regional groups shows that it contains certain deficiencies and defects insofar as it would apply to labor dispute arbitration. It is therefore the judgment of the Academy that the widespread adoption of the proposed Act in its present form would be a disservice to labor-management relations.

RESOLVED, therefore, that the Academy oppose the enactment of the proposed Uniform Arbitration Act in its present form insofar as it would apply to labor dispute arbitration;

RESOLVED, further, that the Board of Governors of the Academy; in consultation with the Academy's Committee on Law and Legislation, prepare a formal statement of the position of the Academy concerning the proposed Uniform Act, such statement to include specific proposals of changes deemed necessary to make the proposed Act acceptable;

RESOLVED, further, that the Board of Governors take appropriate action to make known the position of the Academy on the proposed Uniform Act.

At a meeting of the Board of Governors held in Chicago on April 28, 1956, the following resolutions were adopted:

1. All Regional Chairmen shall be requested to notify the Chairman of the Committee on Law and Legislation of the introduction of any legislation in the geographical area covered in their respective regions relating to the Uniform Arbitration Act.
 2. The Chairman shall be notified of any commissions or committees appointed by the respective legislatures for the purpose of conducting any hearings relating to the Uniform Arbitration Act.
 3. The Academy desires the opportunity to be heard at local levels in the event that legislative hearings are held on the Uniform Arbitration Act.
 4. The Chairman shall distribute the Russell Smith Report accompanied by a copy of the resolution passed by the Academy concerning its policy relating to the Act to all interested parties, legislators, state commissioners, labor organizations and management organizations which evince interest in the Uniform Arbitration Act.
 5. The Chairman of the Committee shall advise the Regional Chairman of any pending legislation concerning the Uniform
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Arbitration Act in the respective geographical areas which may be brought to the attention of the Chairman.

6. The Chairman shall distribute any and all reports, articles or other publications relating to the Uniform Arbitration Act which in his opinion would be of interest to members of the Academy or other interested parties.
7. The President of the Academy is authorized to make any and all expenditures necessary to implement the above resolutions, and to appear at hearings or authorize appearances of Academy Members at such hearings at Academy expense.

In accordance with the resolution of the Board of Governors, all Regional Chairmen were advised of the Act of the Board and the Russell Smith Report of the Committee on Law and Legislation dated January 26, 1956 was sent to everyone listed by a member.

In accordance with the said resolutions of the Board of Governors, a letter was sent to all the members of this Committee asking them to advise the Chairman of the introduction of any legislation that may be introduced in their Region or any hearings that may be set relating to the Uniform Arbitration Act; also requesting that they mail to the Chairman of this Committee the names and addresses of leaders of Unions and Companies and other organizations that should be advised of the action taken by the National Academy of Arbitrators. A copy of the Russell Smith Report was mailed to each person named by the Members of this Committee.

On August 30, 1956, the House of Delegates of the American Bar Association approved the following amendments in the Uniform Arbitration Act which were adopted by the National Conference of the Commissioners on Uniform State Laws on August 24, 1956:

Section 12 (Vacating an Award)

Sub-section (a) (3) which read, "The Arbitrators exceeded their powers or rendered an Award contrary to public policy" was amended to read: "The Arbitrators exceeded their powers."

Sub-section (a) (4) which read, "The Award is so indefinite or incomplete that it cannot be performed" was stricken.

Sub-section (a) (5) was changed to sub-section (4) and the word, "or" was inserted at the end of the paragraph marked "(4)."

Sub-section (a) (6) which read "The Award is so grossly erroneous as to imply bad faith on the part of the Arbitrators, or" was stricken.

Paragraph (7) was re-numbered "(5)" and *Sentences in Section 12 (c)* were re-numbered.

The members of this Committee were advised of the changes made in the Uniform Arbitration Act, and the view of each member as to the Amended Uniform Arbitration Act was requested.

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In accordance with the Report of the American Bar Association at its 1956 Meeting, it was stated that the Uniform Arbitration Act as now approved by the American Bar Association will be presented to the Legislature of each State by the American Bar Association Standing Committee of State Legislation.

It should now be up to the members of the National Academy of Arbitrators to notify the Chairman of the Committee on Law and Legislation of the introduction of any such legislation in their State, and their approval or disapproval of it. The Russell Smith Report, as approved by the National Academy of Arbitrators at its 1956 Convention, should be used as a means of analyzing such legislation for the good of labor arbitration.

Harry Abrahams, Chairman of the
Committee on Law and Legislation

Members of the Committee: George E. Bowles, Archibald Cox, Frank Elkouri, Robert Feinberg, William Forrester, Alexander H. Frey, Sylvester Garrett, Walter Gellhorn, Robert Howard, Robert E. Matthews, Russell A. Smith, Clarence M. Updegraff.
