Proceedings of the Eighteenth
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TO

Cyrus S. Ching

Whose signal and continuing contributions to the arts of industrial relations command our admiration and who himself will ever hold our deep affection, this volume is respectfully dedicated by his friends,

The National Academy of Arbitrators
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EDITOR'S PREFACE

As the professional organization in the field of labor dispute arbitration, the National Academy of Arbitrators has the responsibility to examine frankly and candidly the criticisms which are advanced either in regard to the alleged shortcomings of arbitrators or of the process itself. The Academy at its Eighteenth Annual Meeting devoted several of its sessions to an examination of such criticisms.

Two matters of concern among the parties have to do with the arbitrator's opinion and his conduct of the hearing. In Chapter I, a panel of Academy members discuss the criticisms which have been leveled against arbitral opinions as well as the problems arbitrators encounter in writing opinions. The manner in which the hearing is conducted is of importance to the parties and to the arbitrator if the purpose of arbitration is to be served. A panel of management and union advocates discuss in Chapter IV the responsibilities of the arbitrator and what the parties expect of him in maintaining an orderly hearing. The chairman of the panel, Samuel H. Jaffee, also presents some keen insights into the problem from the standpoint of the arbitrator.

The scope of arbitration and the "proper" role of the arbitrator are the subjects of Chapters V and VII. Whether or not the scope of arbitration should be restricted and limitations placed upon the power of the arbitrator are matters of concern to the parties—a concern that has increased, especially among management representatives, with the Supreme Court's 1960 Warrior and Gulf "trilogy" and subsequent decisions. In Chapter V, "Should the Scope of Arbitration be Restricted?", Francis A. O'Connell, Jr. presents a management viewpoint of these matters and Ben Fischer considers them from the union viewpoint. A panel of management and union representatives discuss the O'Connell and Fischer papers in Chapter VII.

An address by George Taylor, Chapter VIII, "The Public Interest—Variations of an Old Theme," raises some important and provocative questions concerning the arbitration process. Professor Taylor suggests that employee satisfaction with collective bargaining and grievance arbitration has declined as collective agreements have become more complex and the administration
of these agreements more technical and legalistic. He suggests that current rank-and-file unrest is caused in part by these developments and urges that if grievance arbitration is to survive as a substitute for the strike, there must be changes in approach.

Concluding the examination of the arbitrator and the arbitration process are Chapters III and VI. In the former chapter, President Peter M. Kelliher in his Presidential Address discusses in a light and humorous fashion, but with deep insight, the problems of the arbitrator as he pursues his profession. Chapter VI presents a very amusing account by Arthur M. Ross of what will happen when the arbitrator becomes automated.

In addition to these chapters, a matter of great current interest is presented in Chapter II—collective bargaining in the railway industry with emphasis upon the emergency board procedure. Have the parties failed to meet their collective bargaining responsibilities under the Railway Labor Act, and especially have they met their responsibilities in regard to the emergency board procedures? What is the attitude of railway management and labor in regard to the emergency board procedure? Of those who serve on the boards? These and other provocative questions are discussed by a panel composed of representatives of railway management and labor and of Academy members who have served on emergency boards.

The appendices also contain, as usual, interesting and important information. The Report of the Law and Legislation Committee is presented in Appendix C. This Committee, under the chairmanship of Edgar A. Jones, has ably and concisely reviewed the legal developments in relation to arbitration that have occurred over the past year. The Academy's continuing survey of arbitration matters, prepared by the Arbitration Survey Committee, under the chairmanship of Irving Bernstein, is reported in Appendix D.

Appendix B contains the amended Constitution and By-Laws of the National Academy of Arbitrators. The principal change is found in Article IV, Section 2, The Committee on Ethics and Grievances. This section, approved by the members at the Eighteenth Annual Meeting, establishes a procedure by which charges
against Academy members for violation of the Code of Ethics (Part I of the Code of Ethics and Procedural Standards for Labor-Management Arbitration prepared and adopted by the American Arbitration Association and approved by the Federal Mediation and Conciliation Service) can be instituted and investigated. If such charges are proven to be correct after careful investigation, action against the offending member can range from advice to the member to expulsion from Academy membership. The adoption of this amendment is the culmination of years of effort and study by special committees and by the membership themselves in their regional and annual meetings. Most of the work was done, however, by the Special Committee on Grievance Machinery which was established in 1962. Special credit should go to the committee’s chairman, Abram H. Stockman.

Through the years, much of the important published work in grievance arbitration has been contained in the Proceedings of the annual meetings of the Academy. Although each volume of the Proceedings has been indexed, there has been no cumulative index of this material. In order to make the material published in the Proceedings more readily accessible, beginning with this volume, a cumulative author and title index will be published. The Editor also wishes to draw our readers’ attention to the fact that, beginning with this volume, there will no longer be a separate title for each volume. Instead, each volume will carry only the number of the annual meeting at which the volume’s content was presented.

The publishing of any work is possible only through the cooperation of many people. The Editor wishes to acknowledge the cooperation of all who participated in making this volume possible: the contributors of the papers, the chairmen of the various panel sessions who shared in the editing process; members of the staff of The Bureau of National Affairs, Inc. and particularly Patricia Strongin; and Sibyl Sills of Sills Reporting Service for providing the Editor with an excellent transcript of the proceedings.

_Dallas L. Jones_

_An Arbor, Michigan_

_June 4, 1965_
PREVIOUS PUBLISHED VOLUMES OF THE
PROCEEDINGS OF THE NATIONAL
ACADEMY OF ARBITRATORS

The Profession of Labor Arbitration, Selected Papers from the
First Seven Annual Meetings of the National Academy of
Arbitrators, 1948-1954

Arbitration Today, Proceedings of the Eighth Annual Meeting
of the National Academy of Arbitrators, 1955

Management Rights and the Arbitration Process, Proceedings
of the Ninth Annual Meeting of the National Academy of
Arbitrators, 1957

Critical Issues in Labor Arbitration, Proceedings of the Tenth
Annual Meeting of the National Academy of Arbitrators, 1957

The Arbitrator and the Parties, Proceedings of the Eleventh
Annual Meeting of the National Academy of Arbitrators, 1958

Arbitration and the Law, Proceedings of the Twelfth Annual
Meeting of the National Academy of Arbitrators, 1959

Challenges to Arbitration, Proceedings of the Thirteenth An-
nual Meeting of the National Academy of Arbitrators, 1960

Arbitration and Public Policy, Proceedings of the Fourteenth
Annual Meeting of the National Academy of Arbitrators, 1961

Collective Bargaining and the Arbitrator's Role, Proceedings
of the Fifteenth Annual Meeting of the National Academy of
Arbitrators, 1962

Labor Arbitration and Industrial Change, Proceedings of the
Sixteenth Annual Meeting of the National Academy of
Arbitrators, 1963

Labor Arbitration—Perspectives and Problems, Proceedings of
the Seventeenth Annual Meeting of the National Academy of
Arbitrators, 1964

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