

IN MEMORIAM

Benjamin Aaron: 1915-2007



Ben Aaron was an Academy Founder, a member of that small group of individuals whom succeeding Academy generations have revered. Even within that group, he was a standout. Throughout his 60 Academy years, he exhibited competence of the highest order and was respected as one of our ablest members. He was a man of boundless energy and unfailing moral courage. No one contributed more to the affairs of the Academy or did more to give it the good name from which we have all benefited.

Ben addressed the Academy many times in various roles—speaker, panelist, introducer, committee chair, debater from the floor, and President. His papers included significant contributions on arbitration and the law: “On First Looking into the *Lincoln Mills Decision*” (1959) and “Aftermath of the Trilogy” (1962). He wrote the first paper on the subject of “past practice” (1955). And, as luncheon speaker at the Colorado Springs annual meeting (1969), he discarded trenchant analysis in favor of humor—and did so with great success.

Ben served on Academy committees regularly. Two of them were especially noteworthy. Ben chaired the Ethics Committee (1958), as the CPRG was then known, which interpreted the Code to prohibit arbitrators from publishing awards without the parties’ approval, underscoring the Academy’s commitment to the notion that the arbitration process belongs to the parties. Some 30 years later, the Academy was confronted with a serious internal issue, namely, the complaint by relatively new members that their desire to participate in Academy affairs was frustrated by the fact that virtually all key positions were occupied by senior members. A Special Committee on Academy Governance (1990) was appointed to consider the problem. Ben was named Chairman and guided a large committee to a series of unanimous recommendations. The result was a more open and more democratic institution that has eased the path to Academy office and responsibility for our newer members.

Ben wanted arbitrators to be high performers. As President (1962), he launched Academy efforts to improve our profession through training programs. Later, as Chair of the Special Committee on Arbitrator Development (1984), he created a role for the Academy to play in the training of new arbitrators. He saw advertising and solicitation as behavior inconsistent with ethical standards, and he was saddened by the Academy’s action in removing the Code’s prohibition of such behavior.

Ben had a professional life whose range of interests was breathtaking. Aside from the multitude of his many Academy accomplishments, he was a major figure both as a scholar and as an arbitrator. We cite a few particulars.

Ben was a Professor of Law and, for some period, the Director of the Institute of Industrial and Labor Relations at the University of California at Los Angeles. He wrote countless insightful articles for law reviews and journals. He was a substantial contributor to the study of comparative international labor law, for a time led the American portion of the society formed for that purpose, and later became the International Society's President. And, at the epic conference marking the 50th anniversary (1976) of the founding of the American Arbitration Association, the so-called Wingspread Conference, Ben gave one of the six papers that were first-rate products in scholarship and usefulness.

Ben arbitrated, at one time or another, in many major collective bargaining relationships. He issued awards of national significance in basic steel, airlines, air frame manufacturing, postal service, and railroads. He demonstrated unusual skills in achieving consensus in highly charged settings and, for that reason, received special advisory or mediatory assignments not ordinarily entrusted to an arbitrator.

There was also a large public component in Ben's life as a neutral. He long served on the UAW's Public Review Board, established by Walter Reuther to permit UAW members to challenge union decisions when they felt that they had been unfairly treated. Ben believed that the availability of such a dispute-resolution system was an important element in the furtherance of union democracy. The federal government also recognized his great ability. Five U.S. Presidents—Truman, Eisenhower, Kennedy, Johnson, and the first Bush—called on him to deal with national emergency disputes. To be entrusted with such responsibility, time and again over the years, demonstrated the high regard in which he was held by both labor and management.

Howard has a story that says something about how esteemed Ben was. In response to the long and bitter Los Angeles teachers strike in 1970, the California State Assembly created an Advisory Council on Public Employee Relations to provide "expert advice pertaining to the policy questions relating to the resolution of disputes between public employees and their public employers." Ben had been the mediator in the teachers strike and was named

Chairman of a five-member Committee to carry out the Advisory Council's mandate. He asked Howard to serve as one of the five members, making it clear that the project would involve substantial time demands and would be *pro bono*. Howard had reservations about an open-ended commitment with no compensation and asked a friend for advice. If Howard was looking for support for turning down the offer, he had chosen the wrong person. The friend knew Ben well and, without the slightest hesitation, said: "For the privilege of working with Ben Aaron, *you* should pay *him*."

His was a life of excellence. Beyond the work itself, he was the type of person who is essential to the health, stability, and growth of an organization such as the Academy. He fought for sound principles; he resisted foolishness and venality; he accepted responsibility whenever asked; he thought clearly and sensibly about whatever he did; he expressed his thoughts with elegance and simplicity. He was a great influence, a model, for many of our members. The three of us feel privileged to have known him.

We grieve with Eleanor, his confidante and collaborator, for her "Benjy".

Howard Block, Dick Mittenthal, and Rolf Valtin

REMEMBRANCES

Following the tradition initiated by former editor Charles Coleman, we remember our departed colleagues, active and standing members, whose deaths have been reported since the publication of the 2006 Proceedings.

Some of these remembrances are based on longer and more detailed remarks by Academy members that appeared in the NAA's Chronicle published recently.

REMEMBERING

Gabriel N. Alexander

Former Academy President Gabe Alexander passed away at age 97 on September 14, 2007. His remembrance is by his daughter, Ellen Alexander—a member of the Academy—and Richard Mittenhal. Gabe was one of a small band of original arbitrators who worked as “permanent” arbitrators in major industries during the years in which labor arbitration gained wide acceptance. He was a longtime umpire with GM/UAW, Chrysler/UAW, and ARMCO/USA and held other permanent appointments in farm equipment, meat packing, steel, and automotive industries. His clear writing and analytic style as well as his no-nonsense hearing approach were widely respected as he decided many cases of first impression involving fundamental interpretative issues for which no compelling precedent was available.

Harry Berns

Don Russell remembered Harry Berns who died at age 95 on December 15, 2006. Harry graduated from DePaul University Law School and worked for the National Labor Relations Board in the 1930s. During World War II he served as an MP in England. After the War, Harry became General Counsel for the Indiana Conference of Teamsters and, following his retirement from the Conference, he joined the arbitration ranks. During the 1970s and 1980s he was one of the best mediators in teacher disputes for the Indiana Education Employment Relations Board. Governor Evan Bayh appointed him to the original Public Employment Relations

Board, which administered Gov. Bayh's executive order granting the right to negotiate to Indiana state employees.

Charles B. Blackmar

A member since 1976, Charles Blackmar passed away at age 84 in January 2007. He earned a law degree from the University of Michigan and served in World War II. From 1966 to 1982 he taught at St. Louis University School of Law, during which time he was an active arbitrator in the Midwest. In late 1982 he became Chief Justice of the Missouri Supreme Court, where his most notable dissent was in the Nancy Cruzan right-to-die case in which he wrote that families, rather than the state, should make the decision regarding a patient's right to "die with dignity." He was a lifelong opponent of the death penalty.

Laurence P. Corbett

John Kagel and the Northern California Region remembered Laurence Corbett who passed away at age 85. Larry graduated from Harvard College and Law School. He had great respect for the collective bargaining process and for those who participated in it. His work in hospital labor relations was particularly notable. He was soft-spoken, meticulous in preparation, and fair. Through imagination and experience he resolved knotty problems that led to win-win solutions. When Larry retired from his law firm in 1991 he was immediately accepted into the arbitration profession. Many of the unions selecting him were those he opposed as an employer advocate, underlying the respect unions had for his character, intelligence, and fairness. He advised and acted in arbitration training films *The Truth of the Matter* and *The Proof of the Matter*. He was a founder of the San Francisco chapter of the IRRRA (now LERA) and chair of the Labor and Employment Law Section of the San Francisco Bar Association.

Earl M. Curry

Nels Nelson and Steven Briggs remembered Earl Curry as an outstanding arbitrator, dedicated teacher, and best friend. After graduating from West Virginia University and serving in the Army, Earl earned a Master of Retailing degree from the University of Pittsburgh with a view toward taking over the family business in

Pineville, West Virginia. After a year operating the family business, he returned to WVU where he earned a law degree and taught business law at the University of Omaha for three years. In 1968 he earned a Master of Laws from New York University where he became interested in labor arbitration and attended his first hearing under the tutelage of Arthur Stark.

Earl taught at the University of Richmond Law School and the College of Law at the University of Akron. In 1972 he started his arbitration career and in 1980 Earl entered the Academy. He was an active member, attending practically every national meeting, and was a regular participant in Region 9 meetings. The Academy has lost an outstanding arbitrator and many of us lost a good friend.

Milton T. Edelman

Mike O'Reilly remembered Milton Edelman and his calm intellectual demeanor that encouraged class discussion in collective bargaining and labor economics at Southern Illinois University. Milt was in Region 11 (Central Midwest) but was an active attendee at Region 12 (St. Louis) meetings. Usually he was the first to volunteer to take a topic, research it, and lead the discussion. Aside from his active participation in the Academy, Milt participated in the St. Louis Bar Association arbitrator training program. His style at hearings was casual, but in control, and his awards were brief, written for the grievant's understanding, and well reasoned.

Sol M. Elkin

Paul Glendon remembers Sol Elkin who passed away on September 9, 2007. Sol earned a B.A. and Ed.D. degrees from Wayne State University, served four years in the Army Air Force during World War II and later taught for more than 20 years in Detroit Public Schools. Following retirement from DPS, Sol served as Chair, Education Department, at Albion College, where he developed an interest in labor arbitration and began hearing cases in the mode of "learning by doing." His clients appreciated his direct and logical analysis, keen understanding of the practicalities of the workplace, and simplicity and economy of expression. Academy friends knew Sol as a consummate gentleman, thoughtful and modest with a probing intellect, a generous spirit, and a nonsense devotion to his craft.

Gerry L. Fellman

Mei Bickner remembered Gerry as a good friend and colleague who passed away February 16, 2007, in Los Angeles. He was 74. Born in Omaha, Nebraska, he earned a law degree from the University of Nebraska and a Master's degree in Labor Economics at the University of Minnesota. Gerry moved to California in 1958 to work for the National Labor Relations Board and the California Division of Labor Law Enforcement. Eventually he went into private practice, specializing in labor arbitration and mediation for 30 years. Gerry was a co-founder of the IRRRA's Southern California chapter. In the Academy, Gerry served on numerous committees, chaired the Legal Affairs Committee, and was a member of the Board of Governors from 1997–2000.

He was as kind and friendly to new and aspiring arbitrators as he was to Academy presidents, always going out of his way to make new Academy members feel welcome. He was a wonderful friend, genuinely thoughtful, generous of spirit and kind to everyone, particularly to the least of us. Those of us who knew Gerry will miss his wonderful spirit, cheerful presence, and especially the unconditional affection he exhibited toward all of us. He was what Ted Jones called one of "God's peacemakers."

Neil M. Gundermann

George Fleischli and Milo Flaten remembered Neil Gundermann, a member since 1974, who died on November 4, 2007, in Madison, Wisconsin, at age 74. Neil graduated from Ripon College and served in the U.S. Army. After earning a master's degree in 1962 from the University of Illinois' Institute of Labor and Industrial Relations, Neil worked at the Wisconsin Employment Relations Commission for Arvid Anderson, Zel Rice, and Morris Slavney, where he rose to be Executive Secretary. Neil dedicated more than 30 years as a full-time arbitrator and member of various permanent panels. He was particularly proud of his 35 years' service on the Chicago Transit Authority and ATU panel.

Irving Halevy

Stephen J. Rosen remembers Irving Halevy, a member since 1971. Irving passed away on May 8, 2007, short of his 91st birthday. He served in the Pacific Theatre during World War II and, after

the War, earned bachelors and masters degrees from Columbia University. From 1952 through 1986, he was Professor of Management at Fairleigh Dickinson University, where he taught labor relations. As a labor arbitrator, Irving had a reputation as a careful listener and adept problem solver. He served as permanent arbitrator for Revlon and for the New York-New Jersey Port Authority as well as an interest arbitrator for the New Jersey Public Employment Commission.

Robert O. Harris

Bob Harris died on October 1, 2007, at age 77. He is remembered by Herbert Fishgold and Richard Kasher. Bob earned a law degree from Yale in 1954 and served in the Army followed by stints at the U.S. Department of Health, Education and Welfare and U.S. Department of Labor. From 1961–1967 he served as assistant to the Chairman, National Labor Relations Board, followed by 11 years as majority Staff Director and Counsel for the Senate Labor Committee and Senate’s District of Columbia Committee where he was instrumental in having legislation passed for D.C. Home Rule.

Presidents Carter and Reagan appointed Bob to the National Mediation Board as a member and chair (1977–1984). Presidents Reagan, George H.W. Bush, Clinton, and George W. Bush appointed Bob to various Presidential Emergency Boards in both the railroad and airline industries. From 1984–1989 Bob was the ombudsman at the International Monetary Fund. As a member of the Academy, Bob served on the Board of Governors as well as Chair of the New Members Committee.

Peter Henle

Rolf Valtin remembered Peter Henle, a Washingtonian, who died in February 2007 at age 88. Rolf knew Peter for more than 60 years. Peter came to arbitration upon retirement from the federal government as a principal Economist with the Bureau of Labor Statistics and ill health forced him to retire from arbitration not long after attaining Academy membership. He was an active participant for 10 to 12 years in the Academy’s Washington region. Peter was a caring and giving person, a man of quiet competence, a friend who listened with genuine attention.

Morris A. Horowitz

Gary Altman remembers Morris Horowitz who died on July 20, 2007. From 1959–1990, Morris was in the Economics Department at Northeastern University, rising to Chair the Department. For many arbitrators Morris will be honored for his admirable service as Vice Chair of the Massachusetts Joint Labor Management Committee for Police and Fire (JLMC) when John Dunlop was Chair and anchored a “take no prisoners” approach to labor relations. Morris’ and John’s contrasting styles meshed extremely well for under their tenure nearly 2,000 police and fire fighter disputes were resolved without a single job action. Morris remarked that every grievant had a story and he wanted to know and listen to that story by placing himself in the grievant’s situation. Advocates, arbitrators, mediators, and staff at the JLMC will always miss his gentle manner and kind words.

Matthew W. Jewitt

Don Crane and Linda Byars remembered Matt Jewett, who died on November 25, 2006, at age 86. He was Professor Emeritus of the College of Business and Economics at the University of Memphis and had been an active arbitrator for more than 30 years. Matt’s college education at Virginia Polytechnic Institute was interrupted by World War II. He served as an officer in the U. S. Navy in the Pacific Theatre. After his military service, Matt worked in management for the Chesapeake and Potomac Telephone Company of Virginia while he pursued his bachelors’ and masters’ degrees in Business Administration from the University of Richmond and a Ph.D. in Labor Relations from the University of Alabama. The Academy has lost a great arbitrator and his gentle manner and respect for all shall be missed.

Joseph Krislov

Alvin Goldman remembers Joe Krislov, a member since 1977, who died at age 79 on August 30, 2007. After service in the Army Air Corps during World War II, Joe attended Case Western Reserve University, Ohio State University, and the University of Wisconsin, where he earned a Ph.D. in economics in 1954. In the mid-1960s, Joe became a professor at the University of Kentucky, where he taught labor economics, labor-management relations, and labor

history until his retirement in 1999. Twice he was awarded Fulbright Fellowships and twice he chaired the NAA's region for Ohio and Kentucky. Known for his affability, warm smile, subtle sense of humor, and broad range of intellectual interests, Joe's conversations were marked by probing questions rather than declarative sentences.

Theodore H. Lang

A member of the Academy since 1992, Ted Lang died on November 23, 2007. Ted earned a Ph.D. from New York University in 1951 and served as Personnel Director for New York City and Deputy Superintendent of Schools for Personnel for the City's Department of Education. From 1971–1985 he was a Professor at Baruch College and Director of the National Center for the Study of Collective Bargaining in Higher Education. He began an arbitration career in the 1980s and was a member of the TWA/IFFA panel and numerous rosters in public school districts.

Dawson J. Lewis

Mark Kahn remembered meeting Dawson during the 1960s when Mark had several grievance arbitration cases at the Wyandotte Chemical Company (now BASF). As a management advocate, Dawson evaluated grievances intelligently and objectively; he retired from Wyandotte at age 61 after having risen to Vice-President of Employee-Industrial Relations. As a prominent and highly respected member of the Detroit labor-management community, Dawson swiftly developed a second career in labor arbitration that continued for almost 30 years. He was an active member of the Detroit Labor and Employment Relations Association (formerly IRRRA) until his full retirement in 2001. Dawson was a broad-gauged guy who gave generously of his time and energy for many constructive purposes apart from labor relations.

William P. Murphy

Alvin Goldman remembers former Academy President Bill Murphy who was the Henry Brandis Emeritus Professor of Law at the University of North Carolina and a World War II combat naval veteran. Bill earned law degrees at the University of Virginia and Yale and clerked for a U.S. Court of Appeals' judge. In 1953

he joined the law faculty at the University of Mississippi but was dismissed from his position for teaching and writing that *Brown v. Board of Education* was the law of the land.

In 1962 he joined the University of Missouri law faculty where he co-authored (with members Jim Jones and Julius Getman) the first employment discrimination textbook. Bill chaired the University of Missouri's faculty senate during the turbulent anti-war student demonstrations. In 1971 Bill accepted a position on the law faculty at UNC where he remained until retiring in 1990. Bill enriched his teaching experience by delivering the ABA Labor Law Section's Supreme Court lecture in 1989, and serving as Professor-in-Residence at the NLRB, as well as Distinguished Scholar at the Southwestern Legal Foundation, and as Visiting Professor at the University of Leuven, Belgium.

Walter H. Powell

Walt Gershenfeld remembered Walter Powell, a member of the Academy since 1980. Walter passed away at age 92 on December 2, 2007, in Philadelphia. Walter earned a bachelor's degree in economics and his law degree from New York University. He enlisted in the Army after Pearl Harbor and served in Japan during the post-war occupation. After his discharge he earned a master's degree in labor relations at the University of Pennsylvania and completed studies towards a doctorate. He taught at Temple University and was part of the group of arbitrators who worked with George Taylor in the 1950s to publish the *Guide for Labor Arbitration*. Walter was a pioneer in developing approaches to labor relations that preceded the concept of interest-based bargaining.

In 2004 he retired from 27 years of arbitration after having decided more than 1,500 disputes among truckers, steel workers, government and postal employees, educational institutions, and private industry. He was a member of the Philadelphia Human Relations Commission and on the board of the Urban League and co-chaired the Philadelphia chapter for the National Alliance of Businessmen.

N. Thompson Powers

Willard Wirtz remembered Tom Powers as someone who played a variety of roles in the labor relations field and excelled in all of them. Tom contracted Lewy body disease, a form of dementia,

and died at age 77 in early February 2007. Joining the Academy late in his career, Tom became only slightly involved in its affairs but his extraordinarily attractive and affable character resulted in his close association with a wide circle of members who deeply regret his departure.

At Duke University, Tom's record still stands as the highest scoring football player in school history and he was a star on its baseball team. Upon graduating he was drafted by the Washington Redskins football team and the Pittsburgh Pirates baseball club. Tom turned his back on sports, except for establishing himself as a zero handicap golf player, and enrolled at the Harvard Law School, where he graduated cum laude. Tom was active in John F. Kennedy's 1960 campaign; Archibald Cox referred him to the Labor Department in 1961 where Tom served as a special assistant to the Under Secretary and then the Secretary. He became an architect of Title VII of the Civil Rights Act of 1964 and later served as the EEOC's General Counsel and Acting Executive Director. Upon returning to private law practice he argued (and won) two noteworthy cases before the Supreme Court: *United States v. Weber* in 1979 and *General Telephone Co. v. Falcon* in 1982.

Paul W. Rothschild

Paul Warren Rothschild, 89, died on March 5, 2007, in San Diego. He was born in St. Louis on February 18, 1918, and served in the Army during World War II. Following the end of the war he returned to St. Louis and became an active member of the Missouri Bar Association. Later in his career he became an arbitrator and had been an Academy member since 1980.

Mark Santer

Mark Santer died on June 23, 2006, at age 91, from complications of Parkinson's disease. He was a World War II hero, a long-time NAA member, and a person who lived a life dedicated to balancing his interests in arbitration, athletics, and music. He was born in Lynn, MA, and graduated from Boston University in Business Administration. During World War II he served as a Lieutenant in Italy and was awarded the Bronze Star. After the war Mark came into the labor relations field, spending a quarter of a century as a mediator for the Massachusetts Board of Conciliation and Arbitration before establishing a private practice.

He was an inveterate tennis player; proud of having climbed all the mountains of Maine, Vermont, and Massachusetts that were higher than 4,000 feet; and a music buff through attendance at the Boston Symphony Orchestra as well as ballet and the theater. Mark was a constant attendant at NAA functions, particularly in New England.

Jesse Simons

George Nicolau and Jonas Aarons remember member Jesse Simons who died on July 8, 2006, at age 88. Jesse started as a personnel clerk in a hospital, and became a machinist and copper-smith as well as an assistant shop steward at a shipyard. He served in the Army Air Corps during World War II. From 1948–1951 he was assistant to the political director at the ILGWU. In 1954 Jesse moved over to the management side as industrial relations manager at the *New York Post* and Vice President for United States Lines. In 1971 he joined the arbitration ranks where he had a reputation for integrity and fairness.

His most significant contribution to labor relations was his work in the mid-1960s as Director of the Labor Management Institute for the American Arbitration Association. At that time New York City did not have a comprehensive labor law for its 240,000 workforce scattered among 400 bargaining units. Jesse set up a tripartite working group and forged a system that has governed municipal labor relations in New York City for more than 40 years. His 1990 paper “The Arbitrator’s Remedial Powers” urged that the timid among us understand that a make-whole remedy has to include interest and arbitrators should not hesitate to consider nontraditional remedies.

Duane L. Traynor

George Fleischli remembered Duane Traynor, who died on January 26, 2007, in Roswell, Georgia, at age 96. Duane was 65 years old when he became a member of the Academy in 1975. During all but the last few of the 31 years that followed, he was active as a lawyer and an arbitrator. Quiet and soft-spoken, he was not well known to many, although he was a member of several committees in the 1980s. He always attended the regional meetings in Chicago and all national meetings until family health issues prevented it.

After graduating from the North Dakota School of Law in 1934, Duane practiced for a short time and then joined the FBI where, in 1942, he was contacted by George John Dasch, one of eight German saboteurs in the United States. Duane interrogated Dasch for 13 hours and extracted a 254-page statement—which was not released until after the war—that contributed to the capture of all saboteurs, who were tried by a secret military tribunal. Not disclosing Dasch’s statement was viewed as necessary so Germany would not discover how the saboteurs were captured. Although military defense lawyers challenged the tribunal’s jurisdiction, the Supreme Court in *Ex Parte Quirin*, 317 U.S. 1 (1940), allowed it to proceed. The Court’s reasoning in *Quirin* featured prominently in *Hamdan v. Rumsfeld*, 126 S. Ct. 2749 (2006), for use of military tribunals to try “enemy combatants.”

Marlin M. Volz

Phyllis Florman remembered Marlin as a giant of a man by any measure. Marlin enjoyed his various roles of professor, dean, judge, chairperson of the Kentucky Public Service Commission, chairperson of the Louisville Human Rights Commission, author and editor of law books, and service on boards and committees of national organizations, including the Board of Governors of the Academy.

People sought Marlin for his wisdom and his counsel, admired his personality, his kindness and tolerance, and recognized his ability to simplify very complex issues. Although his office at the University of Louisville’s Louis D. Brandeis School of Law was filled with plaques and photographs paying tribute to him, Marlin retained two items at eye level: pictures of his family and the Rotary International “Four-Way Test” that he lived by: “Of the things we think, say or do: (1) Is it the truth? (2) Is it fair? (3) Will it build good will and better friendships? (4) Will it be beneficial?”

P.M. Williams

Ray Britton remembered PM as possessing the all important traits of fairness and neutrality, which were attested to by the frequency with which the parties chose him as their arbitrator to resolve disputes. He was a long-time member of the Academy and its Southwest Region. In addition to having a successful arbitral career, PM had a long-lasting marriage and an enviable military

record. He was married for 59 years to Jerry Marshall Williams; they had two daughters, Linda Durbin and Barbie Hillstrand, and two grandchildren, Jennifer and Jeremy Hillstrand. He demonstrated his love of country by serving as a fighter pilot during World War II and later as an instructor in the Naval Reserve. PM retired from the Navy after 22 years of service. PM stands tall as a credit to the arbitration profession and will be missed by all who knew him.