

National Academy of Arbitrators
HISTORY COMMITTEE INTERVIEW

William E. Simkin

NAA President, 1950

Interviewed by Gerry Feilman

June 1, 1989

WILLIAM E. SIMKIN
PRESIDENT NATIONAL ACADEMY OF ARBITRATORS

1950-51

INTERVIEWED BY GERRY L. FELLMAN
AT
THE CHICAGO HILTON & TOWERS, CHICAGO, ILLINOIS
JUNE 1, 1989

It is June 1, 1989. My name is Gerry L. Fellman. I am inter-viewing William Simkin who was President of the Academy in:

1950.

This project is sponsored by the Academy History Committee in order to preserve the account of activities in the background of the Academy Presidents. Bill, first we are interested in your personal background. Can you tell us where you were born, raised and educated?

I'll try and make this as brief as possible. I grew up in a little village called Poplar Ridge, with ninety people in it, which is in central New York in the so called Finger Lake Region, 25 miles north of Ithaca; and then I went to Oakwood School, which is a Quaker boarding school; and then I went to Jerome College in Richmond, Indiana, where I majored in chemistry, minored in math and economics, intending originally to be an electrical engineer. I have taken graduate work at later dates; I have forgotten the specific dates, at Columbia University and at the Wharton School at the University of Pennsylvania.

Now your work at those institutions, what fields were those in?

Well, they were all in economics.

Economics, yes.

What happened was sometime or other during my senior year I began to have some questions about electrical engineering. I don't know why. And I decided to work with my Dad for a year after graduation to kind of get myself straightened out and to decide what to do. Dad ran a hardware store; and we did plumbing and heating work and had a couple of men working with us for what was essentially a farming community.

I see.

While I was, in the Spring, they had fired the principal of the school a mile and one half away; and the Superintendent of Schools came in to buy some nails; and, after he had bought his nails, he said: "Bill why don't you be president, chairman or principal of the Sherwood School?", which was the first that I had ever even dreamed of doing educational work. I had never had a course in education.

That is starting at the top.

And, well to make a long story short, that is the way it worked out; and I was principal there for two years; and Ruth joined me.

Ruth is your wife?

Ruth is my wife, joined me in the second year. We were married in between first and second year. Then I, after Sherwood, I went to Brooklyn Friends School and taught chemistry for a year and a half; and then we were asked, Ruth and I were askedf' to go to West Virginia with a Friends Service Committee; and we went down; and I helped, I and another guy, Dan Houton, taught miners how to make furniture; and we made and sold furniture; and Ruth worked on weaving and worked with the Girls' Club and various other activities. Then I went to the Wharton School. I decided that it was a question of staying in West Virginia the rest of my life or doing something else. I got a job as an instructor at the Wharton School. I went to Wharton School and taught various courses.

Well, you taught and worked?

I taught and took a full graduate course at the same time.

At Wharton?

At Wharton.

You taught at Wharton?

I taught at Wharton and took a full graduate course.

In economics?

In economics. And I was fortunate enough to take George Taylor's course; and George was a good teacher; and George made us write, made all of us write

a paper during that course. I went over at the end of the course in June to go over the paper with him, which he had spent a lot of time on and had a lot of suggestions. And, at the end of that conversation, I said: "By the way Dr. Taylor, would there be any chance of my sitting in on a couple of arbitration cases during the summer sometime?" I said: "I have gotten a little bit interested in arbitration during this course". Of course, he had talked quite a bit about it; and he said: "That's funny." He said: "I was just ready to offer you a job." He said: "I need a full-time assistant in the Hosiery industry; and I have talked to the Parties; and they are agreeable to hiring you; and we are ready to start July first, if you are willing to accept it."

You had not arbitrated up to....

I had never arbitrated; and so I started on July 1st. And, make sure I have my years right, '39, I started in full-time as an arbitrator as George's assistant. He insisted on calling me Associate Impartial Chairman instead of assistant; and I have been involved in arbitration ever since, with two principle exceptions. I did some work for the War Labor Board. I was appointed head of the Federal Mediation and Conciliation Service for eight years in the sixties under Kennedy and Johnson.

What was that under Kennedy and Johnson? There was the

Federal Mediation and....

Federal Mediation of course, go ahead

Federal Mediation and Conciliation Service for eight years; and I have done some work for the foreign service. I was Chairman, starting Chairman, of the Foreign Service Grievance Committee, which was separate from any other organization and

And that was after I got through with the FMCS; and I have been quite active in the Academy from its first beginning. I was one of the charter members.

Let me ... right before we get to the Academy, may I ask you a few more questions about

Yes

Because we certainly, the Academy is going to be the heart of a good share of the questions, but were there any other mentors in those early years other than George

Taylor?

I don't recall any. I imagine there were. There were a few other early arbitrators; but George was, in my judgement, not only the best one, but the major one.

In terms of influence....

In terms of influence

On you he.....

On me and on the arbitration profession

On the arbitration profession as a whole ok

And

Now the volume of cases in the early years, you are indicating it was full-time?

Close to full-time. The way we would work this initially, I would go to the hearing with George. On the way back from the hearing, we would talk about the case and decide what should be done. I would write a decision; he would go over that decision and sign it.

I see

Now any, any decision that, any case that he heard, he signed; I didn't. Then it was not very long before he started sending me out on my own.

He wouldn't be there?

And I would run the hearing, and of course I would sign the decision as Associate Impartial Chairman. Then they made, after about a year and a half, George became Umpire for General Motors and the UAW; and the Parties promoted me from Associate Impartial Chairman to Impartial Chairman of the Men's Clothing Industry.

May I ask, how many cases per year with Taylor and after Taylor when you were in that...?

I have some information on that, but I did not bring it with me. I don't know

really, I would

More than one hundred cases a year?

No, not initially, not more than that. And I, in my total arbitration career, I have arbitrated a little over five thousand cases.

Oh my.

And of course, from '39 until '89 is what?

Fifty years.

Fifty years, but out of that....

This is your golden anniversary....

Out of that, were eight years as head of the FMCS and a total of about three years or so with the War Labor Board; and so those five thousand plus cases are in thirty, maybe thirty eight years.

I see, ok. Now

And I retired, semi retired. I am not officially retired, but I virtually stopped arbitrating sometime in '83. I have a few cases, but not many.

Well now, were you, did you ever apply to the FMCS and the AAA and state agencies, other panels outside of these umpireships?

I was on the both lists as an approved arbitrator....

Do you remember when you applied?

It must have been fairly early on. I don't know the dates.

Actually, your arbitration career began ... Did it begin before those panels began?

No, they were both in existence, except that as far as the FMCS was concerned, that was not in existence.. It was the old U.S. Conciliation Service, as part of the Department of Labor.

But at the start when you were working with George Taylor as his associate,

assistant, associate did you also apply to the FMCS and AAA?

I had my name on their lists and I had a few cases; but I have had a relatively few cases from both organizations in my whole life.

You were so busy with these other umpireships?

Most of the time. Well I do have some figures on this. Over eighty percent of all my cases were where I was so called Permanent Impartial Chairman or Permanent Umpire or whatever they called me. We, somebody, is going to have discover a better word than "permanent"; because, of course, I had to retire, resign from all those situations when I became Chairman of the FMCS; but most of them have been fairly long-term. My last one lasted thirteen years....

Now, this next question seems to me does not apply to you at all and that is What were the greatest hurdles in developing an arbitration career? It sounds like you really didn't have any...

Well, I, there are hurdles of course for any individual. I don't remember any personal hurdles. I had no hurdle in getting into the profession. The only hurdle was in learning from George; and George was a great teacher. So, but there certainly were no hurdles in getting involved and I was extremely fortunate in that respect.

Now we can shift to your membership in the Academy.

You want to shift to that now?

If we may? There are so many things that I want to deal with, but I have to stay with the format.

As you would. . . . You well know. . . .

Who recommended you?

You well know Ralph Seward was our first President.

Yes

And he served for two plus years. We had a short term after our organization meeting when he was President. Then he was elected President for two full

years.

But, you were there for the first, even before the regular meeting weren't you?

I was one of the starting members, Founding fathers, so called; and I, during Ralph's Presidency, I happened to be Chairman of the Membership Committee. We had only two committees in those days; Membership and Ethics. The Presidency took quite a lot of time, because of correspondence with committees. The Secretary took a lot of time. Al Colby was Secretary most of that period.

No professional staff at all?

No professional staff, not only no professional staff, but no compensation. Not only no compensation for being President, but no compensation for trips and all that sort of thing.

I see, no reimbursement?

No reimbursement whatever....

My....

If you went somewhere and made a speech or went to an Academy meeting, it was strictly on your own.

I see...

And

So, when you started out, you were Chairman of the Membership Committee. Were you also an officer at the time of the

No, I don't think so, I was just Chairman of the Membership Committee.

That was your beginning?

Right. And our Membership Committee which functioned under somewhat different procedures than they do now. We had no ... We even took in a few members who never arbitrated at all. ... We thought that integrity and potential ability as an arbitrator was not necessarily dependent on the number of cases, so that most of the members that we took in were people who had somehow

acquired arbitration experience, but not all. That was a period of time, you recall, right after the War Labor Board, right after the war, and

Now, we are talking '46, '47?

Yes, or "50", "46, 47" and arbitration was growing substantially during that period, for two principle reasons: 1) Because the War Labor Board supported arbitration. The War Labor Board had so much work that it couldn't handle every arbitration, every grievance dispute that was referred to it; and it would refer a lot of those to individuals for arbitration. That's where quite a few of our members got their start. I had some of those aside from my Hosiery work.

Now, we are interested in your Academy assignments. What was your next position in the Academy after the Membership Committee?

Presidency.

Oh, you went from?

I went directly. There is a story that I know, whether I should tell. I guess I will. We had no, there was no such thing as President-Elect in those days. That did not occur until about ten years later.

I see.

And the President would appoint a Nominating Committee and the Nominating Committee would come up. Usually they would not even have their list of nominees, because we had so few committees and so forth. They would not usually have their list of nominees until the Annual Meeting. They would meet a day or so early and come up with a list. And the Chairman of the Nominating Committee, whose name was Phil Marshall, who is now dead, was a member from Milwaukee. He happened to be Chairman of the Nominating Committee. He came to me the night before election. He said: "Bill we've got a problem. Dave Cole and Dave Wolff both would like to be President, and not only that; but they have got a lot of cohorts. They have a lot of support; and we just don't want an election; because we don't know how it will come out. We just don't think it is a good idea to have an election; and they say that neither one will support the other. But, they both said they will support you."

Oh, I see.

So, I said: "Ok, Phil, I'll take it for one year, if that is the way you want it; but

I want it clearly understood and publicly announced that it is only for one year.

Ralph Seward had been in for two?

Ralph Seward had been in for two and I think I am responsible for the one year term which eventually emerged.

Instead of the two years. . . .Well now how about the annual meetings, educational conferences, regional conferences? I assume you have attended many of those over the years.

I have attended most of them over the years, until very recently, virtually 100% attendance for many years.

Annual Meetings?

The year I was President, I had to go around and make a few speeches here and there. I have thrown away all of my notes; so I don't have any record of what they were.

But have you attended any of the Educational Conferences, the Mid-Year Meetings?

I have not attended any of those.

How about the regional meetings, have you attended some regional meetings?

We had a Regional Meeting. It was not called that at the beginning; but we had meetings in Philadelphia, really sponsored by George Taylor.

That's where you were based?

Yes, from way back, I lived, we lived in Philadelphia at that time. And these meetings went back before the beginning of the Academy; and we had a meeting in the winter, every winter month. We had one meeting a month. We would have dinner together and then we would have some kind of discussion after the meeting; and I attended those and

Both before and after the Academy?

And they have become a little, I believe, become a little bit formalized since.

I see, I see. Well now, do you think that the membership at the Academy affected

your case load?

No, I think, by virtue of the start with George Taylor, I would have essentially the same number of cases as if I had not been a member of the Academy.

Yes, well now

That's one of those guesses. You really don't know.

Yes, my guess is that you would be as busy as you could be regardless of.....

I was busy in any event.

Yes, I wonder if we ... there was no President-Elect before you were President; but, when you were elected President, what were the major goals of the Academy during your term?

Well, I have tried to think; and frankly i don't know. I have my recollection that's so far back since I destroyed all the old records, I can't really give a very good answer to that.

I suppose that

Our major goal, in a sense, was growth; because we were growing fairly rapidly, not in huge numbers but ..

Do you know how many members there were, roughly, when you became President?
Do you have a ball park figure?

I should know, but don't.

That's all right.

I am quite sure we had over a hundred members by the time I became President. We started out in our initial organization meeting in Chicago with forty people.

Was that at this hotel where we are that used to be called the Stevens or the Drake?

I can't remember where we met.

That's ok.

We met in Chicago, but we had meetings. Oh who was, where is that list of Presidents? Do you have a list of Presidents?

Yes, I do; but you know something, it's alphabetical. It might not help. But, let me ask you if I may sort of go back to the goals. It seems to me that you told me that Membership and Ethics were the two committees.

Were the only

Were the only committees; so I assume that there must have been a concern and an emphasis on ethics.

Yes, there was.

Because you are talking about growth, which would be related to membership to me, so you

Yes there was.

How about major problems during your term as President.

I don't remember any. We had the membership fairly, I don't know, two or three membership meetings a year to select members for the next annual meeting. We had a lot of applications. It used to be called, in a sense, not a very valid name; but it used to be called the War Labor Board Alumni Association. But, most of our members were people who had started with the War Labor Board; and then you may recall, if you have read the history, that President Truman called a conference after the war was over to try to find, his objective, in which he failed, his objective was to get some kind of a no-strike arrangement continued after the War Labor Board went out of business. And he called a conference, which lasted close to a week, of all the top labor and union people in the country. And that conference divided up into committees. One committee of which Ralph Seward was chairman was on arbitration; and they came up with a unanimous decision that all labor agreements should have an arbitration clause, subject to the condition that the arbitrator should abide by the terms and conditions of the agreement.

I see.

Those were not the precise words, but the essence of it.

This was right after the war?

This was in '4-7.

1947?

November 1947.

Were you on that committee?

I was. There were four or five of us who were, secretaries to that committee. George Taylor was one; and Judge Casey was Co-Chairman, and Ralph Seward was Chairman of this committee.

Was this during your presidency? No this was before your presidency.

This was before my presidency.

Bill, may I go back to your presidency; and, that is, would you like to say what you feel were your greatest accomplishments during your....

I don't expect there was any particular great accomplishment.

Maybe the growth?

I did a lot of work, and there was some growth... I don't remember any major hassles at the annual meeting.

So there really weren't any great disappointments?

There was; it was primarily a period of growth.

And the ethics, do you have any recollection? Were there any debates about ethics?

Yes there were. You know, I was subsequently Chairman of the Ethics Committee that drew up the Code before our present Code.

Now we are talking about your term now, we are talking about your term.

During my term, the Executive Committee met; and they developed a Code that I think came out in '51.

But again, we are talking now, we are just trying to zero in on your presidency.

But I knew that the Ethics Committee was working. They were doing quite a lot of work that year.

During your term?

During my term; but I did not make any, as I recall, any major contributions to that first Code of Ethics that came out in '51.

Well, about what would you say during your term? I know that you have said that, basically, your case load, the time you spent as President, did that affect your case load? Did you have to cut down your caseload?

It cut down the number of cases that I might have handled, but I was extremely busy.

You were still hearing cases and writing decisions?

I was still hearing cases and writing decisions all the time.

During that year as well?

Any effect was simply a cutting down on volume during the year I was President.

Now, what would you say took the most time of your work as President?

Most of it was writing letters and making phone calls about miscellaneous activities of the Academy. Al Colby, who was Secretary, did a lot of that; and I was busy in that capacity.

Getting ready for the annual meeting, was that

Getting ready for annual meetings. I have forgotten who arranged where our annual meeting would be. I think it was probably Al Colby, who had major responsibility for that; but I am not positive.

I know that at the start of your term there were the two committees, the Membership and the Ethics Committee. Were there any additional committees by the time of the end of your term?

I don't remember. I don't think so. I think it was a year or so later that we had to begin to add committees. As you know, we have done so ever since.

It was a young organization when you were leading it. Well now, what do you consider is the most important qualification for Academy President?

That's a tough question.

Yes, I agree.

I think

Maybe we have to add the word, make it plural?

I think, without talking about myself, I think the President ought to be an arbitrator, who is well recognized as an arbitrator in labor and industry circles and who has a good reputation as an arbitrator and who is able now and then to make a speech about arbitration. I think that is about it.

Ok, how about any ... do you have any suggestions for future presidents?

Well I have become increasingly disturbed about what I am afraid is a tendency toward legalism. I have no objection to lawyers as such. As a matter of fact, over the years, I have worked with arbitrators one way or another whom I have great respect for and feel did a good and fair workman like job in assisting with a grievance procedure. Because of their legal training, they could help organize it and shorten it. But those arbitrators that I like were the arbitrators that shortened it.

Ah ha.

The ones that shortened it. They would so organize their cases that we would not have long drawn out maneuvers. The arbitrators that I am afraid we are having trouble with, and I would have some trouble with even in my life, are the arbitrators who make all kinds of objections as to who should be in the room and objections to types of testimony and all that sort of thing. I am an old fashioned arbitrator. I prefer to let somebody tell their own story in their own words, instead of answering a lot of questions.

Now, in terms of how that would affect the Academy presidents, what would you suggest that the Academy presidents should do to deal with that problem?

I don't know how it can be handled, frankly. But I think that is a major problem.

Maybe training programs or something?

Training. These fall training programs may be helpful. And I just don't know enough about the present membership to know how much real trouble we have of this sort. But I ran into, when I was head of the FMCS, I ran into some horror stories. They could be trouble; no way do you want any of those.

Well, right now I want, if we can, we are just finishing the part about the presidency. Just wondered if you have any other suggestions for future presidents of the Academy?

I don't think so. No I think they have to perform their own function in their own way, as long as they are capable, objective people, who are recognized by the labor community, labor and management community, as worthwhile arbitrators.

Ok, the final category, Bill. Finally, how would you characterize the economic and industrial relations environment during your arbitration career? Now the question deals with national policy in labor relations, economic conditions, specific labor problems, effect of these on collective bargaining and labor arbitration. Now that's quite a mouthful for fifty years.

That is!

Do you have any observations in that general area?

The labor movement, obviously, is running into problems, declining membership, especially in the major areas in the heavy industries; and there, I think they are meeting those problems in some respect. I think they are devising arrangements for closer cooperation and increased efficiency. But, whether they will be able to do that and still survive, I don't know. I think they are a lot in what you consider serious trouble, in addition to declining membership. And I don't know what the President of an Academy can do about that. I don't think you can do very much.

I guess now we are kinda away from the area of the presidency of the Academy. Just any observations you would want to make about labor arbitration, collective bargaining, changes through the years.

Well, we talked about the lawyer thing.

Right.

And I'll tell you a story you may want to use. But, I arbitrated one place where the union never used an attorney; and the company always did. At the regular company law firm, the members who normally handled our arbitration cases were so busy that they had to get a new man. They got a new man, who happened to be from Washington, who was a nice enough guy, personally. This particular union and company had just had a long strike. They had quite a batch of cases filed for arbitration. I always had been a very informal kind of a guy, and I did something I suspect is totally contrary to the Code. The union spokesman outlined his case; and I turned to him and said, "Joe, I shouldn't be doing this; I never; I think this is the first time I ever tried, probably the first time I ever will, but I suggest you withdraw this case." I gave him two or three reasons. I said you guys are broke after the strike; and, if I write up the case, it will cost you a few bucks. I suggest you withdraw it. And he looked at me and said " Ok, Bill, we withdraw it." Up jumped the company attorney. Oh no, you can't withdraw this case. This has been gone through all of the previous steps of the contractual steps of the grievance procedure and submitted to arbitration. We must have the arbitration. I argued with him a little bit, but could not convince him. I said, "Ok lets go ahead and hear the case." So, we went ahead; and he presented all his evidence. Now, I could not restrain myself. As soon as he had finished, I said "You know, Mr. X, now that I hear the company case, I am beginning to wonder whether I made a mistake." The union guys were fit to be tied, because they knew me well enough to know that I was kidding, but he didn't.

He was the company?

He was new, and he didn't. Finally, the plant manager had to call a meeting, had to have a caucus; he had to call a meeting of his management people. We'll let the Union withdraw the case.

So that is an example of the legalism vs. the practical?

Yes, except I think that is an extreme illustration of legalism.

Yes, I understand.

I was never afraid to ask questions; but I thought it was, and it indeed happens to be (in the Code). I always make sure that the parties have plenty of time to present their own case. But, it was not unusual for me to ask quite a lot of questions toward the end of the case; and sometimes I would tip my hand. Not irretrievably, but so that some of the most intelligent people in the room would at least know.

Know which way?

Say Old Bill is deciding; he was going to decide it this way. And, I did that so, if I didn't think that I had tipped my hand, I wanted the parties to have another crack at me.

I see.

If they had a pretty good idea of what the decision was going to be, I wanted them to have an opportunity to set me straight. And, the other reason was that I think a piece of paper is a rather cold document to receive a decision on; a piece of paper is a rather cold method of procedure.

Now, did you give bench decisions?

No, I did very few in all these decisions, very few bench decisions. I wrote most of them up. I had some, for example, in Hosiery we had what we called an SWD series. Settled without decision. Either George or I would write a brief summary of what this was; but,, this was a settlement of that grievance that the parties had agreed to before we left the hearing.

I see.

But, I have issued very few bench decisions. I had one or two when people have asked me to.

Do you think that, in terms of the practical handling of the hearing, where you sort of give the indication, have you done that all through your career as an arbitrator? Do you think that would be a good idea for more and more arbitrators to utilize in the future?

Well, I don't know whether to recommend it. It depends on the individual.

Not everybody is a Bill Simkin.

I did it only in cases where I was the continuing arbitrator, only in cases where I knew the parties extremely well.

I see.

And they knew me.

This is not every case, not an ad hoc decision.

And they knew me. I would not do it in an ad hoc.

Well, Bill, we are really at the end of our allotted hour. I wonder, I don't know whether you have anything that you would like to add to the last couple of minutes. You can if you like. It is up to you.

No, I think anything that I would add, I have already added. I have this feeling about formalism that had always bothered me. I have always felt that by the time, I run short hearings, I didn't want a lot of repetition. And I wanted people to have ample opportunity to express themselves. If they got long winded, I'd cut them off one way or another. I would say "well I have heard that before," or something to create a similar comment. But, I have always had the feeling that, by the time you leave the hearing room, everybody in that room who was half-way smart ought to be able to think to himself, Old Bill at least understands our problem. So that's why I would frequently ask questions; because I think it is important for them to have that sense, by the time they leave the hearing, that the arbitrator understands what it is all about. I have heard of arbitration cases where the arbitrator sits at the head of the table and never opens his mouth to say a word, and this would disturb me.

I see.

I don't think then you have to wait for the decision; and, as I say, a piece of paper is kinda cold.

Bill, you have been with the Academy as a founding father and all the way through. I think that your comments are extremely valuable from start to finish. I think that people are going to be fascinated with your own personal background and how you were involved.