

ARBITRATION COURT GIVES OUT ITS RULES

Parties Submitting Differences Must Agree on Men to Hear Their Cases.

COUNCIL WILL BE HEARD

Liberal Provision Is Made as to the Character of Evidence to Be Admitted.

EACH SIDE TO SHARE COST

Code to Be Interpreted by the Com- mittee Whenever Misunder- standings Arise.

The rules for the conduct of the Court of Arbitration, formulated with the advice of the leading Judges in New York State, were made public yesterday by the Arbitration Society of America. They were drawn up by a committee consisting of Justice Charles L. Guy of the Supreme Court, former United States Senator James A. O'Gorman and Frank H. Sommer, Dean of the New York University Law School.

When the Court of Arbitration was formed by Moses H. Grossman and a number of other lawyers and Judges last Spring the task of drawing the rules was delegated to the committee, and the members worked on them for eight months. They sought the rules of every arbitration society in the world and then studied to adopt the best features of each, with a view always of making the procedure as simple as possible.

When the rules were first drafted they were submitted to the Judges of the Supreme Court and the United States District Court, and to lawyers, with the request that they be carefully examined and suggestions made for their improvement. There were many suggestions, and whenever it was thought best by the committee they were incorporated, or articles were changed to make them less liable to confuse the arbitrators.

All to Agree on Arbitrators.

One of the curious facts developed by this investigation was that every Judge and lawyer consulted gave as his opinion that the time-honored custom of each side selecting an arbitrator, these two men to select a third, was fundamentally wrong. It was pointed out that whatever choice was made a man selected by one side and not by the other was certain under this method of being the third and deciding factor in disposing of the case. So the new rules provide that whether one, two or three arbitrators are selected they shall all be the choice of both parties to the agreement.

The rules also provide for absolute privacy, particularly as to a discussion of trade secrets. The other day there were seven arbitrations in the rooms of the society, all of which involved trade secrets that rivals might have wished to learn of, and which would have been revealed in a court procedure. The cases were settled satisfactorily to both disputants. There have been more than 100 cases already settled by merely bringing the parties together without the necessity of proceeding to arbitration.

Another interesting thing about the rules is that they do not exclude lawyers, and that the Court of Justice is the only arbitration body in the world which does not bar them. It was felt that because every lawyer was a potential Judge his services should be available for those who wished a lawyer to decide their dispute.

Many of the arbitrations thus far have been in private homes at night, for it was found that although big business men were willing to give their time to deciding trade questions they could not spare the time during the day. So they have frequently arranged to hear cases at night in their homes, and only recently three of the wealthiest business men in the city heard a case until far into the night in a luxurious home uptown, where a buffet lunch was served by the host and main arbitrator.

The rules as finally adopted by the society follow:

1—Appointment of Arbitrators.

The parties may agree upon one or more arbitrators. The Arbitration Committee of the society will select, designate and appoint one or more arbitrators at the request of both the parties, or when so requested by either of the parties, where such arbitration is had pursuant to their previous written agreement providing for arbitration in case of dispute and they fail to agree upon the arbitrators when so requested by either of the parties.

2—Chairman.

If three or more arbitrators are chosen, the parties shall designate one of them as Chairman. If not so designated by the parties, a Chairman shall be designated by the Arbitration Committee of the society.

3—Vacancies.

The Arbitration Committee shall have power and authority to declare the position of any arbitrator vacant by reason of sickness, death, resignation, absence, disqualification, neglect, refusal or inability to act, and any such declaration of vacancy by the Arbitration Committee shall be final, conclusive and binding on all the parties. Vacancies shall be filled in the manner provided for by these rules for original appointments. Upon appointment of any new arbitrator he and the remaining arbitrators shall meet and agree as to the manner of conducting and proceeding with the arbitration in view of the substitution of arbitrator; but if the arbitrators fail, neglect or refuse to agree, then the Arbitration Committee shall make a rule or order in accordance with which the arbitrators shall proceed, and such rule and order shall be final, conclusive and binding on all the parties.

4—Submissions.

All submissions shall be executed in triplicate, in form provided by law, and one of these shall be filed with the Clerk of the Court of Arbitration, duly acknowledged before a notary public or other authorized official as required by law. Where a submission is not signed by the principal, the Ar-

Arbitration Committee may require such proof of the authority of the person signing on behalf of the principal, as the Arbitration Committee shall deem necessary or proper, e. g.:

(a) If signed by an agent, the original or a duly authenticated copy of his power of attorney;

(b) If signed by one or more partners, the written consent of co-partners not signing the submission;

(c) If signed in behalf of a corporation, a duly certified copy of the resolution authorizing the submission.

5—Right of Privacy.

The hearings shall be public, unless otherwise directed by the Arbitration Committee. Such direction must be made when requested by the parties. The members of the committee may be present at the hearings. The testimony shall be not open to others than the parties, except upon the written order of the committee, unless otherwise required by law.

6—Hearings.

The hearing of cases shall commence as soon as practicable after submission and shall be pressed to speedy termination.

7—Attorneys.

Either party if he so desires may be represented upon the arbitration by an attorney duly admitted and licensed to practice law. In that event such attorney shall file a notice of his appearance with the clerk in the usual form, and thereupon all notices to and service of papers upon such attorney made (in like manner as service upon an attorney in an action) shall have the same force and effect as though given to or served upon said party.

8—Facilities.

The society will provide the parties with adequate rooms and all the necessary forms and papers and stenographic and clerical service at cost and without profit, and will endeavor to do or cause to be done everything it properly can do for the purpose of assisting the parties in reaching a speedy, economical, harmonious and just determination of the matter in dispute.

9—Evidence.

While the arbitrators are not bound by the legal rules of evidence, they should exclude matters obviously unrelated which are time-consuming and becloud the issue; but all evidence bearing upon the case should be freely admitted.

The object of arbitration is to afford an easy, expeditious and inexpensive method of settling disputes, designed by law to afford a full and fair hearing. Hearings are not confined by the strict legal rules of evidence. Liberality of procedure is to be observed and such methods are to be followed as will be best calculated to elicit all the evidence pertaining to the case and at the same time meet the convenience of the parties.

10—Reading of Opinion.

The spirit of conciliation should guide the arbitrators in their conduct of the proceedings and they should endeavor to remove all doubts and misunderstandings between the parties so as to effect if possible a meeting of their minds. In case an award seemingly becomes necessary, the arbitrators ought, whenever they deem it expedient, with the view of promoting a better understanding between the parties, to express their reasons for the intended award. But the award should be made whenever necessary and without compromising justice.

11—Awards.

Each party to the arbitration shall be entitled to a copy of the award. When not otherwise provided by the terms of the submission, the arbitrators shall make their award within ten days after the final hearing, unless within that time they or a majority of them give written notice to all parties naming an extension of time for making the award, and further extensions may be similarly ordered thereafter.

12—Clerk's Duties.

The Secretary of the Arbitration Society of America shall be ex-officio the clerk of the Arbitration Committee. His duties as such are as follows: He shall receive and file all submissions and all copies of awards; give notice of all hearings; keep a record of all cases, and keep such other books and memoranda as the committee shall from time to time direct; render all necessary assistance to the arbitrators; attend to their clerical work, and receive and disburse all deposits and costs and keep careful and accurate account thereof under the supervision of the Arbitration Committee, and shall perform all other services incident to his office.

13—Deposit.

The parties to the submission shall each deposit with the clerk at the time of filing the submission such reasonable sum, if any, as he may deem requisite, and thereafter such further reasonable sums as the committee may deem necessary, which shall be disbursed for the account of the parties in payment of arbitrators' stenographers' fees and other necessary expenses.

14—Arbitrator's Fees.

Where an arbitrator, registered with the society to serve without compensation, is designated, there will be no fee.

Where an arbitrator, not so registered with the society, is designated, a fee will be paid to the arbitrator by the parties to the controversy. The amount of this fee, and the conditions of its payment (whether by the party in whose favor the award is found or the party against whom the award is made, or by each of them in shares regardless of the nature of the award), will be arranged between the arbitrator (or arbitrators) and the parties to the controversy at the time of the submission, and can only be changed thereafter by their mutual consent. The society will, as a measure of service to all concerned, conduct the negotiations and prepare the necessary written stipulation to be signed by the parties to the arbitration.

15—Unprovided Contingencies.

In case of difference as to any matter of procedure not expressly covered by these rules, the determination of the Arbitration Committee not contrary to express provisions of law shall be binding and conclusive upon the parties.

16—Construction of Rules.

The arbitrators shall construe these rules and regard the submission to them as being designed to secure justice and equity in the shortest possible time, with a minimum of expense, and above all, if possible, to obviate or, in any event, minimize the annoyance, irritation and bad feeling which often exists or is engendered between disputants.

17—Definitions.

Wherever the word "party" or "parties" is used in these rules it shall refer to the parties to the submission, and wherever the word "arbitrator" or "arbitrators" is used it shall refer to the arbitrator or arbitrators, as the case may be, whether there are one or more. Wherever the word "Committee" is used it shall refer to the Arbitration Committee of the Arbitration Society of America, Inc. Wherever the word "Society" is used it shall refer to the Arbitration Society of America, Inc. Wherever the word "Clerk" is used it shall refer to the Clerk of the Arbitration Committee.

18—Interpretation.

In case of any misunderstanding or any question concerning the interpretation or application of these rules, the same shall be referred to the Arbitration Committee of this society, whose decision shall be accepted by the parties as conclusive.

19—Amendments.

The Arbitration Committee shall have full power to amend, alter, repeal, add to or omit any of these rules from time to time as may be found expedient.

20—Special Rules.

The Arbitration Committee may, wherever it deems it appropriate or necessary so to do, adopt special rules applicable to any particular business, trade or profession, or to any particular business, trade, professional or other association; and in case of conflict or inconsistency between such special rules shall prevail, but the general rules shall in all other respects control.

Chemical Engineers Re-elect Howard

Henry Howard of Cleveland, Ohio, has been re-elected President of the American Institute of Chemical Engineers, according to an announcement made by the American Engineering Council. Other officers re-elected are Secretary, Professor John C. Olsen, Brooklyn, N. Y., Polytechnic Institute; Treasurer, F. W. Fyrichts, St. Louis, Mo.; Auditor, Charles F. McKenna, New York.