



# A Dictionary of Arbitration and its Terms

LABOR • COMMERCIAL • INTERNATIONAL

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A CONCISE ENCYCLOPEDIA OF  
PEACEFUL DISPUTE SETTLEMENT

\* \* \* \* \*

*Edited by*  
KATHARINE SEIDE

1970

PUBLISHED FOR THE EASTMAN LIBRARY OF THE  
AMERICAN ARBITRATION ASSOCIATION

BY OCEANA PUBLICATIONS, INC.  
DOBBS FERRY, NEW YORK

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Library of Congress Catalog Card Number: 70-94692

International Standard Book Number: 0-379-00386-4

MANUFACTURED IN THE UNITED STATES OF AMERICA

***A DICTIONARY OF ARBITRATION AND ITS TERMS***

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## PREFACE

This reference book was compiled and edited with the earnest hope and simple intention of providing the initial impulse toward a wider and better understanding of the subject of arbitration.

Grateful acknowledgement is made to the Bernheimer Fund of the Chamber of Commerce of the State of New York for a grant to aid in the completion and advancement of this work.

I owe many thanks to the officers of the American Arbitration Association, Donald B. Straus, President; Robert Coulson, Executive Vice President; John P. E. Brown, Edwin W. Dippold, Joseph S. Murphy, Morris Stone, Vice Presidents; Martin Domke, former Vice President; and Gerald Aksen, General Counsel, for their generous faith in my effort to extend the scope and usefulness of the arbitration library.

I would like to express my appreciation to Gerald Aksen especially for his unflinching patience and constant support.

I am very grateful to the members of the Library Committee of the Lucius R. Eastman Arbitration Library, Quigg Newton, Chairman, President of the Commonwealth Fund, Arthur A. Charpentier, Librarian of the Yale Law School; Lucius R. Eastman; and E. Nobles Lowe, General Counsel of the West Virginia Pulp and Paper Corporation, for sponsoring and encouraging this first edition of a dictionary of arbitration.

I am greatly indebted to Merton C. Bernstein, Professor of Law, Ohio State University College of Law; Thomas G. S. Christensen, Professor of Law and Executive Director, Institute of Labor Relations, New York University School of Law; and William M. Reisman, Research Associate of the Yale Law School, for their extremely helpful additions and corrections in serving as special consultants in the three major categories of dispute settlement.

I have received the most kind and courteous replies to my requests for information from David L. Cole in his capacity as Impartial Umpire of the AFL-CIO Internal Disputes Plan; J. P. A. François, Secretary-General of the Permanent Court of Arbitration; A. S. Fransen van de Putte of the Netherlands Arbitration Institute; D. G. Price, Secretary of the International Wool Textile Organisation; David Reid, Secretary of the Institute of Arbitrators; Jean Robert, Secretary General Counsel, International Union, United Trade; Stephen I. Schlossberg, General Counsel, International Union, United Automobile & Agricultural Implement Workers of America-UAW; Richard F. Scott, Deputy Legal Adviser of the Organisation for Economic Co-operation and Development; and Emmett Thomas, Special Representative for Anthracite Affairs, United Mine Workers of America.

For their very willing assistance and cooperation, I wish especially to thank Mary Pelizza and Ellen Varady, and also with grateful appreciation Patricia Ann Colletti, Sally Cornwell, Marianne Gupta, Harry Herfurth, Susan Nadler, Jeri Socol and, as special typists, Patricia Bartolotta and Robert Cessna.

My special thanks also go to Helen E. Freedman and David G. Finkelstein, assistants to the General Counsel of the American Arbitration Association.

Others who did much preliminary and essential research and who deserve special mention are: Barry Bennett, Margaret Causey, Mark Denbeaux, Jeffrey Dubin, David Gould, and in particular Teresa McKellen.

Finally I would like to thank Michael Seide for his most vital and invaluable contribution in the writing of the definitions and the preparation of the text as writer-consultant through each and every phase of this project.

I would like to note also here that this Dictionary is a by-product of a Union Catalog of Arbitration which will be published at a later date and which is being funded by such foundations as The Beinecke Foundation, The Eastman (Lucius and Eva) Fund, Inc., The New York Foundation, The New York Times Foundation, The Pittsburgh Plate Glass Foundation, The Warburg (Mr. and Mrs. Paul Felix) Fund, the American Arbitration Association, and Anonymous Gifts.

Katharine Seide

Librarian

Lucius R. Eastman Arbitration Library  
of the American Arbitration Association



## INTRODUCTION

This publication is designed as a handbook of arbitration in a format which allows a reader to enter into an area of arbitration through a pertinent term or word, defined in straightforward, non-technical language. An effective guide, more in the form of an encyclopedia than a dictionary, it is, I think, also closely related to the digests with which we are all familiar. You will find in it not only the vocabulary of arbitration but also a liberal sprinkling of legal terms, statutes, cases and concepts with which an arbitrator or student may be concerned ("laches," "Adamson Act," "ex aequo et bono," "res judicata," and the like).

It is primarily intended as a handy, definitive working tool for the arbitrator, practioner, party, teacher or student interested in arbitration. One need not be a lawyer to use it.

This admirable project owes its existence to Katharine Seide, librarian of the American Arbitration Association. Mrs. Seide conceived this as part of a far larger project, the creation of a union list of arbitration materials held by leading libraries in this country.

Katharine is fortunate in being blessed with imaginative superiors who encouraged her work and provided initial financing. Donald B. Straus, President of the Association; Robert Coulson, Executive Vice President; and Gerald Aksen, the General Counsel, have all been active in implementing the concern of the Association's Library Committee under Quigg Newton, President of the Commonwealth Fund, that the Association act as a central clearing house for the dissemination of the knowledge of arbitration proceedings.

This reference book is the first manifestation of other projects. We all expect it to prove as useful in its sphere as the Association is unique and indispensable in the field of arbitration.

As for me, nothing is more satisfying to a law librarian than having the privilege of watching another librarian conceive and produce a good contribution to our work as her organization encourages and supports her on the way down the puzzling road of creation and compilation.

Arthur A. Charpentier  
Yale Law School, 1969

## EXPLANATORY NOTES

A careful reading of these explanatory notes will make it easier for the user of this dictionary to comprehend the information contained at each entry.

**ORDER OF ENTRIES.** The main entries follow each other alphabetically, in order, letter by letter, from *a* to *z*. For example, Labor Arbitration (Voluntary) comes after Labor Arbitration Reports; Nationality precedes National Joint Board.

**CROSS REFERENCES.** Each entry is further amplified by interlocking references found under the *See also* after the body of the explanatory matter following each definition. By remaining within the hierarchy of these references the user may accomplish preliminary research on individual subjects, such as, for example, Procedure, which is a broad subject, or Award, which is narrower in scope. The main categories of Commercial, International Commercial, International Public, and Labor Arbitration are each followed by the longest list of cross references. Referral to each of these individual references will lead into further and pertinent information.

## ABBREVIATIONS

<i>Adm.</i>	administrative
<i>Ann.</i>	annotated
<i>Ann. Rep.</i>	annual report
<i>Arb.</i>	arbitration
<i>Art.</i>	article
<i>Ass'n.</i>	association
<i>Bull.</i>	bulletin
<i>Cert.</i>	certiorari
<i>Cert. den.</i>	certiorari denied
<i>Civ.</i>	civil
<i>Co.</i>	company
<i>Com'l.</i>	commercial
<i>Comm.</i>	committee
<i>Comm'n.</i>	commission
<i>Conf.</i>	conference
<i>Corp.</i>	corporation
<i>Dept.</i>	department
<i>Doc.</i>	document
<i>Gen. Stat. Ann.</i>	general statute annotated
<i>Gov't.</i>	government
<i>Inc.</i>	incorporated
<i>Int'l.</i>	international
<i>Ltd.</i>	limited
<i>Mfg.</i>	manufacturing
<i>Nat'l.</i>	national
<i>Nav.</i>	navigation
<i>n.s.</i>	new series
<i>Proc.</i>	proceedings
<i>Pub.</i>	public
<i>Pub. L.</i>	public law
<i>Rev. ed.</i>	revised edition
§	section
<i>Sess.</i>	session
<i>Stat.</i>	statute
<i>Supp.</i>	supplement
<i>T.S.</i>	treaty series
<i>U.S.C.</i>	United States code
<i>v.</i>	versus

## ABBREVIATIONS OF PERIODICALS CITED

Albany L. Rev.	Albany Law Review
ALR	American Law Reports
Am. J. Int'l. L.	American Journal of International Law
Am. Jurist	American Jurist
Arb. J.	Arbitration Journal
Arb. J. of the Inst. of Arbitrators	Arbitration Journal of the Institute of Arbitrators
BC Ind. Com'l. L. Rev.	Boston College Industrial and Commercial Law Review
Brit. Y. B. Int'l. L.	British Yearbook of International Law
Buffalo L. Rev.	Buffalo Law Review
Bus. Law.	Business Lawyer
Colum. L. Rev.	Columbia Law Review
Cornell L. Q.	Cornell Law Quarterly (v. 53 no. 1 changed to Cornell Law Review)
Dick. L. Rev.	Dickinson Law Review
Duke L. J.	Duke Law Journal
Duquesne U. L. Rev.	Duquesne University Law Review
E. African L. J.	East African Law Journal
Fordham L. Rev.	Fordham Law Review
Geo. L. J.	Georgetown Law Journal
Geo. Wash. L. Rev.	George Washington Law Review
Georgia L. Rev.	Georgia Law Review
Harv. L. Rev.	Harvard Law Review
I.C.J. Y.B.	International Court of Justice Yearbook
Ind. and Labor Rels. Rev.	Industrial and Labor Relations Review
ICA Arb. Q.	Indian Council Arbitration Quarterly
Indian J. Int'l. L.	Indian Journal of International Law
Indian L. J.	Indian Law Journal
Int'l. & Comp. L. Q.	International and Comparative Law Quarterly
Int'l. Arb. J.	International Arbitration Journal
Int'l. L. Rep.	International Law Reports
Int'l. Lab. Rev.	International Labour Review
Int'l. Lawyer	International Lawyer
Int'l. Legal Materials	International Legal Materials
J. of Air L. & Commerce	Journal of Air Law and Commerce
J. Bus. L.	Journal of Business Law
J. Pub. L.	Journal of Public Law
Ky. L. J.	Kentucky Law Journal
Labor L. J.	Labor Law Journal
Law & Contemp. Prob.	Law and Contemporary Problems
Miami L. Q.	Miami Law Quarterly

Mich. L. Rev.	Michigan Law Review
Minn. L. Rev.	Minnesota Law Review
Mo. Lab. Rev.	Monthly Labor Review
Modern L. Rev.	Modern Law Review
Notre Dame Law.	Notre Dame Lawyer
NY L. J.	New York Law Journal
NY State Bar J.	New York State Bar Journal
NYU J. Int'l. L. & Politics	New York University Journal of International Law and Politics
NYU L. Rev.	New York University Law Review
Philippine Int'l. L. J.	Philippine International Law Journal
Q. Japan Com'l. Arb. Ass'n.	Quarterly of the Japan Commercial Arbitration Association
Rev. Jur. U.P.R.	Revista Juridica de la Universidad de Puerto Rico
Rutgers L. Rev.	Rutgers Law Review
Stan. L. Rev.	Stanford Law Review
Texas L. Rev.	Texas Law Review
U. Chicago L. Rev.	University of Chicago Law Review
U. Detroit L. J.	University of Detroit Law Journal
U. Missouri at K.C. L. Rev.	University of Missouri at Kansas City Law Review
U. of Pa. L. Rev.	University of Pennsylvania Law Review
U. Toronto Fac. of L. Rev.	University of Toronto Faculty of Law Review
UCLA L. Rev.	University of California at Los Angeles Law Review
Va. L. Rev.	Virginia Law Review
Vanderbilt L. Rev.	Vanderbilt Law Review
Washburn L. J.	Washburn Law Journal
Western Res. L. Rev.	Western Reserve Law Review
Wisconsin L. Rev.	Wisconsin Law Review
Yale L. J.	Yale Law Journal

## ACRONYMS AND INITIALS

AAA	American Arbitration Association
ABA	American Bar Association
AFL	American Federation of Labor
AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
ALAA	American Labor Arbitration Awards (Prentice-Hall, Inc.)
ARAMCO	Arabian American Oil Company
ARB	Labor Arbitration Awards (Commerce Clearing House)
BLS	Bureau of Labor Statistics
BNA	Bureau of National Affairs
BSEIU	Building Service Employees' International Union
CCH	Commerce Clearing House
CIM	Convention Internationale Concernant le Transport des Marchandises par Chemins de Fer (International Con- vention Concerning the Carriage of Goods by Rail)
CIO	Congress of Industrial Organizations
CIV	Convention Internationale Concernant le Transport des Voyageurs et des Bagages par Chemins de Fer (Inter- national Convention Concerning the Carriage of Pas- sengers and Luggage by Rail)
COMSAT	Communications Satellite Corporation
CPLR	Civil Practice Law and Rules
ECAFE (U.N.)	Economic Commission for Asia and the Far East (United Nations)
ECE (U.N.)	Economic Commission for Europe (United Nations)
E.O.	Executive Order
FMCS	Federal Mediation and Conciliation Service
GAC	General Arbitration Council of the Textile Industry
GAOR (U.N.)	General Assembly Official Record (United Nations)
GERR	Government Employee Relations Report (Bureau of National Affairs)
IACAC	Inter-American Commercial Arbitration Commission
IBEW	International Brotherhood of Electrical Workers
IBRD	International Bank for Reconstruction and Development (World Bank)
ICA	Indian Council of Arbitration
ICAO	International Civil Aviation Organization
ICC	International Chamber of Commerce
ICJ	International Court of Justice
ICSID	International Centre for Settlement of Investment Disputes
ILC (U.N.)	International Law Commission (United Nations)
ILIR	Institute of Labor and Industrial Relations (University of Illinois)

ILO	International Labour Organization
INGO	International Non-Governmental Organization
INTELSAT	International Telecommunications Satellite Consortium
IUE	International Union of Electrical, Radio and Machine Workers
IWTO	International Wool Textile Organisation
JIL	Japan Institute of Labour
LA	Labor Arbitration Reports (Bureau of National Affairs)
LMRA	Labor Management Relations Act
L.N.T.S.	League of Nations Treaty Series
NAA	National Academy of Arbitrators
NAI	Netherlands Arbitration Institute
NLRA	National Labor Relations Act
NASA	National Aeronautics and Space Administration
NWLB	National War Labor Board
OAS	Organization of American States
OAU	Organization of African Unity
OCB	Office of Collective Bargaining (New York City)
OECD	Organisation for Economic Co-operation and Development
PERB	Public Employment Relations Board (New York State)
P-H	Prentice-Hall
PL Boards	Public Law Boards
TIAS	Treaties and other International Acts Series (United States State Department)
TVA	Tennessee Valley Authority
UAW	United Auto Workers
U.K.	United Kingdom
U.N.	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNIDROIT	International Institute for the Unification of Private Law
U.N.R.I.A.A.	United Nations Reports of International Arbitral Awards
U.N.T.S.	United Nations Treaty Series
USAA	United States Arbitration Act
U.S.C.A.	United States Code Annotated
US BLS	United States Bureau of Labor Statistics
US GPO	United States Government Printing Office

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## AAA

See: American Arbitration Association.

## ABS-SHAWCROSS DRAFT CONVENTION ON INVESTMENTS ABROAD (1959)

A proposed treaty drafted to encourage the investment of capital in foreign countries by protecting the property of investors abroad through an international guarantee.

The Abs-Shawcross Draft Convention is an amalgam of two previous separate drafts, one drawn up under the chairmanship of Dr. Abs, and the other under that of Lord Shawcross. Arbitration was to be available as a means of settling disputes, though its use remained optional. The provisions for enforcing awards were extremely vague. Some attempt has been made to revitalize the draft through the Organisation for Economic Co-operation and Development. The basic aims of the Abs-Shawcross draft have also found partial expression in the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, but with more sophisticated procedures and an effort to balance the interests of investors with those of the host States.

See also: Convention on the Settlement of Investment Disputes between States and Nationals of Other States; Draft Convention to Improve the Climate for Investment in Latin America by Facilitating the Settlement of Disputes; OECD Draft Convention on the Protection of Foreign Property.

Sources: [Abs-Shawcross] *Draft Convention on Investments Abroad*, 9 J. PUB. L. (1960); Organisation for Economic Co-operation and Development, *Draft Convention on the Protection of Foreign Property*, Oct. 12, 1967, (O.E.C.D. Publication No. 23081, Nov. 1967); E. NWOGUGU, *THE LEGAL PROBLEMS OF FOREIGN INVESTMENT IN DEVELOPING COUNTRIES* 147-148 (1965); Schwarzenberger, *The Arb. Pattern and the Protection of Property Abroad*, in INT'L. ARB. LIBER AMICORUM FOR MARTIN DOMKE 313 (P. Sanders ed. 1967).

## ABU DHABI ARBITRATION (1951)

[*Petroleum Development (Trucial Coast) Ltd. v. Sheikh of Abu Dhabi*]

An international arbitration which determined whether or not an oil concession agreement of 1939 granted by the Sheikh of Abu Dhabi to a British corporation extended to the seabed and subsoil of the territorial waters of Abu Dhabi and to the continental shelf.

The Abu Dhabi Arbitration is interesting because of the method by which the Umpire, Lord Asquith of Bishopstone, arrived at the applicable law which he described as a "modern law of nature." The concession agreement had provided for the appointment of two arbitrators, and if these arbitrators could not agree, for an Umpire whose award was to be final. The arbitrators failed to come to a decision, and as a result, Lord Asquith was appointed Umpire. Each party had used a different version