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of the successors in interest of the covenantee, and not merely in gross.<sup>49</sup> The few cases decided in North Carolina seem to contemplate the existence of both a dominant and a servient tenement, and at least one case has held that the covenant so creating the easement must conform to public policy.<sup>50</sup> The North Carolina court has expressed no opinion as to whether the covenant would be objectionable if it interfered with alienation, and has had no occasion to decide whether the dominant tenement must be described with particularity; whether the dominant tenement must receive substantial benefit from the easement created; nor whether the dominant and servient tenements must be contiguous. There is, however, no indication that the North Carolina court would find itself in disagreement with these requirements, which have been dealt with in other jurisdictions, if the question were properly presented.

Regarded in the light of the foregoing discussion, the decision in the principal case does not seem to be out of line with the holdings of the majority and the court seems to have adhered to the principles announced in earlier cases in North Carolina.

WILLIAM C. MORRIS, JR.

### Labor Law—Arbitration in North Carolina

Arbitration, as a means of settling commercial and property disputes without resort to the judicial system, was authorized by statute in colonial North Carolina<sup>1</sup> and was commonly used, as shown by the number of cases which reached the Supreme Court, in the early days of statehood.<sup>2</sup> However, it was not until two hundred years after the first

<sup>49</sup> Davis v. Robinson, 189 N. C. 589, 598, 127 S. E. 697 (1925).

<sup>50</sup> Covenant was held to create an easement running with the lands, and binding upon a subsequent purchaser in fee. The court added: "This decision is limited to a case in principle like this: Where the intent to create an easement is clear, where the easement is apparent, and where the covenant is consistent with public policy, and so qualifies or regulates the mode of enjoying the easement, that if it be disregarded, the easement created will be substantially different from that intended." (Italics added.) Norfleet v. Cromwell, 64 N. C. 1, 17 (1870).

<sup>1</sup> Laws of 1749, North Carolina, "An Act for determining Differences by Arbitration," adopting the English statute, 9 & 10 William III c. 15 (1698). 23 CLARK, STATE RECORDS OF NORTH CAROLINA 325 (1904). This statute is no longer in force. Simpson v. McBee, 14 N. C. 531 (1832).

<sup>2</sup> Compare the number of arbitration cases in recent volumes with the fact that eight cases between 1795 and 1801 are reported in the first three volumes of the North Carolina reports. Early subject matters included disputes over land boundaries, a horse, and partnership accounts. It is difficult, however, to differentiate early cases of court rules of reference by consent and voluntary *ex curia* arbitration.

The rudimentary condition of the courts may have accounted for much early resort to arbitration. Not until 1806 was there a superior court for each county. Until 1818 there was no separate supreme court. Adams, *Evolution of Law in North Carolina*, 2 N. C. L. Rev. 133, 138 (1924). In 1846, Governor Graham still longed for a time when "all Law suits could be ended in one, or at most two years from their commencement, instead of being, as they often are, transmitted from father to son." JOHNSON, ANTE BELLUM NORTH CAROLINA 638 (1937).

colonial statute that the North Carolina Supreme Court dealt with its first case of arbitration of a labor-management dispute.<sup>3</sup>

Trade-union organization reached North Carolina as early as 1854,<sup>4</sup> but unionization of basic industry was not sufficient for labor arbitration to warrant attention until the nineteen-thirties.<sup>5</sup> Increased organization of labor and the work of the War Labor Board<sup>6</sup> during World War II were key stimuli in the development of the current and widespread resort to arbitration as a peaceful device for the settlement of industrial grievances,<sup>7</sup> notwithstanding that agreements to arbitrate future disputes are

<sup>3</sup> *Thomasville Chair Co. v. United Furniture Workers of America*, 233 N. C. 46, 62 S. E. 2d 535 (1950). Employer moved to vacate an award made by the majority of a board of arbitration on the ground that the award was not within the scope of the agreement. Employer had signed submission and participated in hearing. Held: the award, interpreting holiday and overtime provisions, was within the terms of the agreement and arbitrators had not exceeded their powers. Judgment directing employer to comply therewith affirmed.

Cf. *Brotherhood of Railway Clerks v. Norfolk Southern Ry.*, 143 F. 2d 1015 (4th Cir. 1944) (decision governed by federal railway labor statute).

<sup>4</sup> The Raleigh typographical union was organized in that year. 7th ANN. REPORT, N. C. BUREAU OF LABOR & PRINTING 118 *et seq.* (1894). Mechanics' associations, forerunners of modern trade unions, were formed as early as 1795 in Wilmington and Fayetteville. JOHNSON, ANTE BELLUM NORTH CAROLINA 174 (1937). The Knights of Labor had extensive organization in the state during the 1880's. MITCHELL, TEXTILE UNIONISM AND THE SOUTH c. 2 (1931). In 1900 there were 82 known labor organizations in the state. 14th ANN. REPORT, N. C. BUREAU OF LABOR & PRINTING 388-91 (1901). Chief Justice Clark addressed labor meetings, frequently contributed articles to the AFL's "American Federationist," and served as a National War Labor Board umpire during World War I. 2 BROOKS AND LEFLER, THE PAPERS OF WALTER CLARK 191, 366, 439 (1950).

<sup>5</sup> Douty, *Labor Unrest in North Carolina, 1932*, 11 SOCIAL FORCES 579 (1933).

<sup>6</sup> UPDEGRAFF AND MCCOY, ARBITRATION OF LABOR DISPUTES 36-38 (1946); Comment, 40 ILL. L. REV. 526 (1946). Cf. Braden, *Problems in Labor Arbitration*, 13 MO. L. REV. 143, 164 (1948).

<sup>7</sup> It is estimated that some 250 collective bargaining contracts are in effect in North Carolina. State Department of Labor arbitrators handle some 25 cases a year, although this agency is being more frequently named in contracts. Letter to writer from Forrest H. Shuford, North Carolina Commissioner of Labor, Raleigh, North Carolina, April 19, 1951.

In the course of interviews with arbitrators in the field, it was learned that the Charlotte, North Carolina office of the American Arbitration Association is currently handling an annual volume of 100-125 labor arbitrations. It is understood that the A.A.A. conducted several hundred labor arbitrations in North and South Carolina during the last five years, but only one commercial arbitration.

In the 15-month period ending March, 1951, the Federal Mediation & Conciliation Service nominated or appointed arbitrators in 224 cases in 15 Southern and border states (including Maryland, West Virginia, Oklahoma, New Mexico, and the District of Columbia, but not including Kentucky). For the same period the national case-load was 870. Approximately 12 cases were in North Carolina. The oil industry, which made the predominant use of the Service in the Southern region, prefers direct appointments by the agency, a rather rare procedure, rather than the usual nomination of panels from which the parties select the arbitrator. Letter to writer from J. W. Greenwood, Jr., Associate Director, Federal Mediation & Conciliation Service, Washington, D. C., April 26, 1951.

These statistics of impartial agencies in no way indicate the frequency with which the parties mutually agree upon an individual arbitrator and proceed to a hearing. On the basis of interviews with arbitrators, it is indicated that at least an additional 25% in case volume thus takes place in this region. The Cone Mills

not judicially enforceable.<sup>8</sup>

A survey will first be made of some aspects of the law of commercial arbitration which comprises the common law that is applied, however in-advicedly,<sup>9</sup> to labor arbitration. This will be followed by an examination of local contractual practices in respect to labor arbitration. Lastly, possible means of enforcement, taking into account the 1951 revision of the North Carolina labor arbitration statute,<sup>10</sup> will be dealt with.

The North Carolina court early recognized the desirability of commercial and property arbitration, finding that it determines the dispute "in an amicable and friendly manner,"<sup>11</sup> avoids "the rigorous application of the rules of construction . . . [with the] endless subtlety of refinement" in the law, and adjusts "the controversies of men before a domestic tribunal,<sup>12</sup> unattended with expense, trouble or delay."<sup>13</sup> "The policy of the law is in favor of settlements by arbitrators<sup>14</sup> . . ." who "are not bound to decide upon mere dry principles of law, but may decide upon principles of equity and good conscience."<sup>15</sup> Justice Seawell declared that it is

"the policy of the law and the care of the courts to liberally sustain this very effectual and valuable method of bringing con-

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and TWUA-CIO are reported to agree upon arbitrators almost uniformly without recourse to the contractual clause providing for impartial selection in event of a deadlock.

Additional cases arise under contracts which provide for a permanent, named arbitrator.

<sup>8</sup> Gregory and Orlikoff, *The Enforcement of Labor Arbitration Agreements*, 17 U. OF CHI. L. REV. 233 (1950); Note, 43 ILL. L. REV. 678 (1948). The Uniform Arbitration Act, N. C. GEN. STAT. §1-544 *et seq.*, is limited to existing disputes.

For an interesting summary of the North Carolina law where the contract provided for New York commercial arbitration, probably in order to avoid local legal uncertainties, see *Gantt v. Hurtado & Cia, Ltd.*, 297 N. Y. 433, 79 N. E. 2d 815 (1948). *Quaere*: is the scarcity of commercial arbitrations in the region, indicated in footnote 7, *supra*, to be partially explained by such evasions? In any event, such device would not be practical in labor arbitration.

<sup>9</sup> Judge-made common law rules were "intended to throttle a technique that society found useful." Gregory and Orlikoff, *The Enforcement of Labor Arbitration Agreements*, 17 U. OF CHI. L. REV. 233, 238 (1950). Commercial arbitration law and procedure "consists of confused, technical and contradictory doctrines." 6 WILLISTON, CONTRACTS §1929A (Rev. Ed. 1938).

<sup>10</sup> C. 1103, N. C. 1951 Sess. Laws, rewriting N. C. GEN. STAT. §95-36.1 (1943) *et seq.*

<sup>11</sup> *Bryant v. Miller*, 1 N. C. 398 (1801).

<sup>12</sup> *Borretts v. Patterson*, 1 N. C. 126 (1799); *Devereux v. Burgwin*, 33 N. C. 490 (1850) ("judges of the parties' own choosing").

<sup>13</sup> *Borretts v. Patterson*, 1 N. C. 126 (1799); *Copney v. Parks*, 212 N. C. 217, 193 S. E. 21 (1937) ("simple and speedy method"); *Leach v. Harris*, 69 N. C. 532 (1873) ("cheap and speedy").

<sup>14</sup> *Robbins v. Killebrew*, 95 N. C. 19, 23 (1886); *Hurdle v. Stallings*, 109 N. C. 6, 13 S. E. 720 (1891) ("arbitration is looked upon with great favor by the courts").

<sup>15</sup> *Robbins v. Killebrew*, 95 N. C. 19, 23 (1886); *Pierce v. Perkins*, 17 N. C. 250 (1832) (decision "according to right, and not according to law . . . influenced by all moral and equitable considerations").

troversies to an end, considering that in many instances the controversy may have a more friendly ending and a speedier determination, and even a greater probability of justice between the litigants than may be afforded by the more belligerent methods of trial in the courts of law."<sup>16</sup>

Despite this sympathetic attitude, the North Carolina court has considered itself bound by the common law doctrine of the revocability of arbitration agreements.<sup>17</sup> Since a *dictum* by Lord Coke in 1609,<sup>18</sup> the prevailing rule has been that either party may revoke his agreement to arbitrate at any time prior to the rendering of the award. Yet the breach of the agreement to arbitrate calls for damages,<sup>19</sup> and once the arbitration has been completed, the award may be recovered in an action at law<sup>20</sup> or specifically enforced in equity.<sup>21</sup>

This anomalous situation<sup>22</sup> by which the specific performance of agreements to arbitrate is denied<sup>23</sup> has been deplored by learned judges<sup>24</sup>

<sup>16</sup> Bryson v. Higdon, 222 N. C. 17, 20, 21 S. E. 2d 836, 837 (1942). In Clark Millinery Co. v. National Union Fire Insurance Co., 160 N. C. 130, 140, 75 S. E. 944, 949 (1912), the Court laid down these "well-settled principles": Arbitrators "are not bound to decide according to law, when acting within the scope of their authority, being the chosen judges of the parties and a law unto themselves, but may award according to their notions of justice and without assigning any reason. . . . The policy of the law favors settlements by arbitration and, therefore, leans liberally and partially towards them, extending its favor in support of this amicable method of settlement." See Leach v. Harris, 69 N. C. 532 (1873) ("liberally construed . . . without regard to technicalities or refinement").

<sup>17</sup> Brown v. Moore, 229 N. C. 406, 50 S. E. 2d 5 (1948); Tarpley v. Arnold, 226 N. C. 679, 40 S. E. 2d 33 (1946). Earliest *dictum* was in Norfleet v. Southall, 7 N. C. 189 (1819). See Williams v. Branning Mfg. Co., 153 N. C. 7, 68 S. E. 902 (1910), regarded as the leading case. Cf. Gantt v. Hurtado & Cia, Ltd., 297 N. Y. 433, 79 N. E. 2d 815 (1948).

<sup>18</sup> Vynior's Case, 4 Co. Rep. 302 (K. B. 1609).

<sup>19</sup> See Wynne v. Greenleaf-Johnson Lumber Co., 179 N. C. 320, 102 S. E. 403 (1920); STURGES, COMMERCIAL ARBITRATIONS AND AWARDS §§22, 84 (1930).

<sup>20</sup> Copney v. Parks, 212 N. C. 217, 193 S. E. 21 (1937); Metcalf v. Guthrie, 94 N. C. 447 (1886); Simpson v. McBee, 19 N. C. 229 (1837).

<sup>21</sup> Thompson v. Dean, 59 N. C. 22 (1860) ("the submission and award, together, amounted to an agreement . . . plainly executory in its nature. . . . The enforcement of such an agreement, specifically, is a familiar subject of equity jurisdiction."). And see Metcalf v. Guthrie, 94 N. C. 447 (1886); Crawford v. Orr, 84 N. C. 246 (1881).

<sup>22</sup> This is especially true in the labor field, where collective bargaining contracts commonly base the no-strike, no-lockout clause on the very availability of grievance and arbitration procedures. The union's right to strike is preserved on matters "not subject to arbitration." AGREEMENT BETWEEN ERWIN MILLS, INC., AND TEXTILE WORKERS UNION OF AMERICA-CIO (Erwin, N. C., Oct. 11, 1950) Art. X, p. 25. See N.L.R.B. v. Dorsey Trailers, Inc., 179 F. 2d 589 (5th Cir. 1950) where findings of the employer's unfair labor practices were over-ruled because the union, even in the absence of a no-strike clause, could not strike where grievance procedures were provided.

<sup>23</sup> See Williams v. Branning Mfg. Co., 154 N. C. 205, 70 S. E. 290 (1911).

<sup>24</sup> Cardozo, J. in Berkovitz v. Arbib & Houlberg, 230 N. Y. 261, 130 N. E. 288 (1921); Hough, J. in U. S. Asphalt Refining Co. v. Trinidad Lake Petroleum Co., 222 Fed. 1006 (D. C., N. Y. 1915); Frank, J. in Kulukundis Shipping Co. v. Amtorg Trading Corp., 126 F. 2d 978, 982-985 (2nd Cir. 1942); Judge Allen in Nelson v. Atlantic Coast Line R. R., 157 N. C. 194, 72 S. E. 998 (1911), reviewed older criticism of the common law rule in other jurisdictions.

and overturned by statutes<sup>25</sup> or judicial holdings<sup>26</sup> in many states. Various arguments have been offered to justify the common law doctrine: that arbitration agreements are inherently revocable;<sup>27</sup> that they "oust the jurisdiction" of the courts<sup>28</sup> and are against the interest of judges;<sup>29</sup> that they are against public policy.<sup>30</sup> On the other hand, agreements to arbitrate labor disputes are today everywhere encouraged.<sup>31</sup> The North Carolina court has now adopted this favorable view as to labor arbitrations,<sup>32</sup> a policy asserted by statute since 1945.<sup>33</sup>

The Uniform Arbitration Statute, adopted in North Carolina in 1927,<sup>34</sup> applies only to agreements to arbitrate already existing disputes—making these enforceable and irrevocable.<sup>35</sup> The statutory method has been construed as being concurrent with, and not exclusive of, the common law method of arbitration.<sup>36</sup> Since labor arbitration is generally based on an agreement to submit future disputes arising during the contract term, this statute has been of no aid.<sup>37</sup> The 1951 revision of the North Carolina labor arbitration act<sup>38</sup> provides:

<sup>25</sup>Statutory situation surveyed in COOK'S CASES ON EQUITY 456 (4th Ed. 1948); Gregory and Orlikoff, *The Enforcement of Labor Arbitration Agreements*, 17 U. OF CHI. L. REV. 233, 238-242 (1950); Note, 43 ILL. L. REV. 678 (1948).

<sup>26</sup>Park Construction Co. v. Independent School District, 209 Minn. 182, 296 N. W. 475, 135 A. L. R. 59 (1941); Ezell v. Rocky Mtn. Bean and Elevator Co., 76 Colo. 409, 232 Pac. 680 (1925).

<sup>27</sup>Vynior's Case, 4 Co. Rep. 302 (K. B. 1609).

<sup>28</sup>Originating in Kill v. Hollister, 1 Wils. 129 (1746). See Williams v. Branning Mfg. Co., 154 N. C. 205, 70 S. E. 290 (1911); Kelly v. Trimont Lodge, 154 N. C. 97, 69 S. E. 764 (1910). Termed "a quaint explanation" in Kulukundis Shipping Co. v. Amtorg Trading Corp., 126 F. 2d 978, 983 (2nd Cir. 1942).

<sup>29</sup>Judicial competition for fees was ascribed as the original reason for the doctrine by Lord Campbell in Scott v. Avery, 25 L. J. Ex. 308, 313 (1855) ("a great scramble in Westminster Hall for the division of the spoil... jealousy of arbitrations"). Noted as a possible motive in Nelson v. Atlantic Coast Line R. R., 157 N. C. 194, 72 S. E. 998 (1911).

<sup>30</sup>See Ellington v. Currie, 193 N. C. 610, 137 S. E. 869 (1927); Nelson v. Atlantic Coast Line R. R., 157 N. C. 194, 72 S. E. 998 (1911).

<sup>31</sup>See §108 of the Norris-LaGuardia Act, 47 STAT. 70, 29 U. S. C. A. §101 *et seq.* (1947); Brotherhood of Railroad Trainmen v. Toledo, P. & W. R. R., 321 U. S. 50 (1944); Park Construction Co. v. Independent School District, 209 Minn. 182, 296 N. W. 475, 135 A. L. R. 59 (1941); Note, 28 N. C. L. REV. 225, 228 (1950).

<sup>32</sup>Thomasville Chair Co. v. United Furniture Workers of America, 233 N. C. 46, 62 S. E. 2d 535 (1950).

<sup>33</sup>N. C. GEN. STAT. §§95-36.1 to 95-36.7 (1950), as revised by c. 1103, 1951 N. C. Sess. Laws.

<sup>34</sup>N. C. GEN. STAT. §§1-544 to 1-567 (1943). See Sturges, *Arbitration under the New North Carolina Arbitration Statute—the Uniform Arbitration Act*, 6 N. C. L. REV. 363 (1928).

<sup>35</sup>N. C. GEN. STAT. §1-544 (1943).

<sup>36</sup>Copney v. Parks, 212 N. C. 217, 193 S. E. 2d 21 (1937).

<sup>37</sup>Although nearly all labor disputes are arbitrated under written submission agreements, few of these would bring themselves within the statutory terms so as to be irrevocable. Cf. Andrews v. Jordan, 205 N. C. 618, 172 S. E. 319 (1934) which seems to require, in order for the statute to be applicable, that the submission agreement expressly invoke the statute.

<sup>38</sup>C. 1103, 1951 N. C. Sess. Laws (§§95-36.1 to 95-36.10).

"Enforcement of Arbitration Agreement and Award. (a) Written agreements to arbitrate labor disputes, including but not restricted to controversies relating to wages, hours and other conditions of employment, shall be valid, enforceable and irrevocable, except upon such grounds as exist in law or equity for the rescission or revocation of any contract, in either of the following cases:

"(i) Where there is a provision in a collective bargaining agreement or any other contract, hereafter made or extended, for the settlement by arbitration of a controversy or controversies thereafter arising between the parties;

"(ii) Where there is an agreement to submit to arbitration a controversy or controversies already existing between the parties.

"(b) Any arbitration award, made pursuant to an agreement of the parties described in subsection (a) of this Section and in accordance with this Article shall be final and binding upon the parties to the arbitration proceedings."

The Act applies only to voluntary agreements to arbitrate labor disputes, including, but not restricted to, controversies respecting wages, hours and other conditions of employment. The statutory purpose is to enable the parties to carry on labor arbitration according to the terms of their own agreement, the Act specifically refraining from imposing statutory terms insofar as the contract provides otherwise on such matters as rules of procedure, fees, selection of arbitrators, and time limits. In addition to making agreements to arbitrate enforceable, the General Assembly strengthened the role of the state Department of Labor through the panel of arbitrators, in the labor arbitration process in North Carolina.

At least four out of every five collective bargaining contracts now provide for some sort of arbitration.<sup>39</sup> A study of arbitration provisions in 71 current or very recent contracts in the South<sup>40</sup> indicates some of the prevailing practices. The vast bulk of labor arbitration in the region is concerned with disposition of grievances arising during a collective bargaining agreement.<sup>41</sup> Typically, arbitration is the terminal step of a

<sup>39</sup> *Arbitration Provisions in Union Agreements in 1949*, 70 MONTHLY LAB. REV. 160 (1950). Of 1,482 contracts analyzed, 83 percent provided for arbitration. For its local significance, this survey indicates that in the textile industry such provisions are most frequent, while in the tobacco industry less than half of the contracts have arbitration clauses.

<sup>40</sup> The sample studied by the writer consisted of 30 North Carolina contracts, 14 from South Carolina, 7 each from Georgia and Tennessee, 6 each from Virginia and Alabama, and one covering several Southern states. Industrially, 42 were in textile, 7 in auto, steel or metals, 4 each in paper and hosiery, 3 each in chemicals, transportation and furniture, and 5 from scattered industries. Over 100 separate plants and local unions were covered, with all branches of organized labor represented.

<sup>41</sup> All the contracts studied provided for grievance arbitration. Only four had clauses indicating the possibility of wage or contract-term arbitration. Over one-half of the contracts specifically excluded wages from the arbitration provision.

grievance procedure which commences with the employee or union steward taking the disputed matter up with the foreman, and with its being intermediately referred, if necessary, to successively higher levels of union and management personnel for bilateral settlement.

A majority of the contracts studied provide for the use of a 3-man board of arbitration.<sup>42</sup> Forty-five percent of the contracts provide for a single arbitrator.<sup>43</sup> These generally contemplate *ad hoc* arrangements for each case. In only four contracts were individuals designated by name to serve for the entire contract period.<sup>44</sup> Provision is usually made for the use of an impartial agency in resolving a deadlock in the selection of the single arbitrator, or the "neutral" third member of the board.<sup>45</sup> Nationally, the Federal Mediation and Conciliation Service is most commonly used.<sup>46</sup> While thirty percent of the Southern contracts name the federal Service, over one-half resort to a private agency, the American Arbitration Association.<sup>47</sup> A few in North Carolina refer to the state Commissioner of Labor.

<sup>42</sup> However, of the 39 contracts which provided for a tripartite board, 7 permitted a single arbitrator if the parties so agreed in particular cases. One contract set up a 5-man board with two appointees each by the employer and the union. AGREEMENT, MEAD CORP. AND UNITED PAPERWORKERS OF AMERICA, CIO (Lynchburg, Va., Sept. 16, 1948) Art. X (3), p. 14.

<sup>43</sup> Few of the 32 contracts providing for 1-man arbitration were outside of the textile and hosiery industries.

<sup>44</sup> 95% of the contracts provided for *ad hoc* arbitration. It is worth noting that the permanent arrangements were generally at plants where collective bargaining had been established for some years. In practice, parties with written *ad hoc* provisions may occasionally have informal understandings whereby a certain individual is appointed regularly.

<sup>45</sup> ". . . a board of three arbitrators, one to be appointed by the Company, one to be appointed by the Union, and a third to be designated by the American Arbitration Association." AGREEMENT, THOMASVILLE CHAIR CO. AND UNITED FURNITURE WORKERS OF AMERICA, CIO (Thomasville, N. C., Sept. 16, 1950) Art. V. §1, p. 11. An unusual provision is for two agencies to make the selection. ". . . the parties shall endeavor to select an arbiter. Should they be unable to mutually agree within twenty-four hours, then either party may apply to the Director of the Federal Mediation and Conciliation Service and the Commissioner of Labor of the State of North Carolina, who shall . . . be jointly authorized to promptly furnish such impartial arbiter." AGREEMENT, HIGHLAND COTTON MILLS AND TEXTILE WORKERS UNION OF AMERICA, CIO (High Point, N. C., June 9, 1949) §IV (a), p. 7.

<sup>46</sup> *Arbitration Provisions in Union Agreements in 1949*, 70 MONTHLY LAB. REV. 160, 164 (1950). However, this study showed that the largest group of contracts, 37% of those analyzed, failed to provide any predetermined method of breaking a deadlock over selection of an arbitrator. Compare this with the instant Southern sample which indicated only 3 contracts of the 71 studied without such provisions. In Warren and Bernstein, *A Profile of Labor Arbitration*, 4 IND. & LAB. REL. REV. 200, 206 (1951), it is shown that both employers and unions prefer selection by the parties themselves as first choice, but that unions, in case of a deadlock, prefer the Federal Mediation and Conciliation Service to the American Arbitration Association by a four-to-one margin.

<sup>47</sup> American Arbitration Association is designated in 39 contracts; the federal service is named in 21. However, 36 of the A. A. A. clauses are in textile or hosiery contracts, in which group the federal service is seldom designated. See KELLOR, AMERICAN ARBITRATION 176 (1948) (by 1946 there were over 400 A. A. A.

Agreements generally provide for speedy determinations as planned by the parties by including strict time limits for selecting the arbitrators,<sup>48</sup> and often by requiring that the hearing and decision take place within a matter of days.<sup>49</sup> All except one<sup>50</sup> of the contracts studied provide that the employer and union share the costs of arbitration. In the textile industry, special types of arbitration are sometimes provided for work-load cases as contrasted with ordinary grievances.<sup>51</sup>

Usually, contracts limit the arbitrator's authority to the "interpretation and application" of the contract terms.<sup>52</sup> Several rigidly restrict the arbitrator's jurisdiction to specified types of disputes<sup>53</sup> or exclude

clauses in the textile industry). In other industries, the situation conformed more to the national pattern. See footnote 46, *supra*. Evidence of compromise, whereby the A. A. A. and the federal service are the appointing agency for alternate 3-month periods, appear in some contracts. AGREEMENT, W. VA. PULP & PAPER CO. AND INT'L BROTHERHOOD OF PAPERMAKERS, AFL (Charleston, S. C., July 1, 1948) p. 10.

<sup>48</sup> Typically, 24 to 72 hours. See footnote 45, *supra*. "Within forty-eight (48) hours after written demand for arbitration the two parties shall meet and endeavor to select an arbiter. Should they be unable to mutually agree within twenty-four (24) hours, then either party may apply" to the impartial agency. AGREEMENT, JEWEL COTTON MILLS, INC. AND TEXTILE WORKERS UNION OF AMERICA, CIO (Thomasville, N. C., Dec. 9, 1950) §V (a), p. 8.

<sup>49</sup> Decision must be rendered within 5 days of conclusion of hearing. AGREEMENT, UNIVERSAL MOULDED PRODUCTS CORP. AND INT'L WOODWORKERS ASS'N, CIO (Bristol, Va.-Tenn., May 9, 1950) p. 5. Board to meet day after appointment, and every day thereafter, except Sunday, until decision reached. AGREEMENT, BIRMINGHAM ELECTRIC CO. AND AMAL. ASS'N, STREET AND ELECTRIC RWY. EMPLOYEES OF AMERICA (Birmingham, Ala., Mar. 28, 1950), p. 2. See *Brotherhood of Rwy. Clerks v. Norfolk Southern Ry.*, 143 F. 2d 1015 (4th Cir. 1944) ("Time is of the essence in arbitration at common law . . ."); *Long v. Cromer*, 181 N. C. 354, 107 S. E. 217 (1921). In practice, stipulations often waive the specific requirements in order to avoid the potential danger of an invalid award—if rendered subsequent to the fixed date.

<sup>50</sup> Losing party shall pay arbitration fees and expenses. AGREEMENT, CLIFTON MFG. CO. AND TEXTILE WORKERS UNION OF AMERICA, CIO (Clifton and Converse, S. C., Apr. 25, 1950) p. 10.

<sup>51</sup> On technical matters, a 3-man board; on non-technical questions, a single arbitrator. AGREEMENT, ERWIN MILLS, INC. AND TEXTILE WORKERS UNION OF AMERICA, CIO (Durham, N. C., Oct. 11, 1950) Art. IX(A)(1)(2), pp. 23-24. On work-load cases, the arbitrator must be: "a competent technician familiar with time studies," AGREEMENT, FIELDCREST MILLS AND TWUA-CIO (Leaksville-Spray, N. C., Feb. 28, 1949) p. 18; "firm of qualified industrial engineers," AGREEMENT, AMERICAN ENKA CORP. AND UNITED TEXTILE WORKERS OF AMERICA, AFL (Asheville, N. C., May 26, 1950) Art. XII(B), p. 23; "an arbiter competent in the field," AGREEMENT, NEWBERRY TEXTILE MILLS AND UTWA-AFL (Newberry, S. C., Feb. 28, 1948) p. 10. Cf. *Norfleet v. Southall*, 7 N. C. 189 (1819) (arbitration "calls for a knowledge of a peculiar kind, and a familiarity with customs and practices").

<sup>52</sup> ". . . jurisdiction and authority to interpret and apply the provisions of this agreement . . . no jurisdiction or authority to add to, take from, or modify any of the terms." AGREEMENT, ERWIN MILLS INC. AND TWUA-CIO (Durham, N. C., Oct. 11, 1950) Art. IX(B), p. 24. ". . . all grievances and complaints concerning violations of or noncompliance with the agreement," GENERAL LABOR RELATIONS AGREEMENT, REYNOLDS ALLOY CO. AND INT'L COUNCIL OF ALUMINUM WORKERS UNIONS, AFL (Listerhill, Ala., Apr. 22, 1949) p. 24.

<sup>53</sup> Listed eight articles to which grievances are limited. AGREEMENT, AMERICAN BEMBERG AND UTWA-AFL (Elizabethton, Tenn., Sept. 1, 1950) p. 8.

listed issues from his authority.<sup>54</sup> Occasionally, the contract expressly details factors which must be weighed in reaching the decision.<sup>55</sup> The scope<sup>56</sup> of the award, or more commonly, its form,<sup>57</sup> may be explicitly limited. In practice, nothing resembling exclusionary rules of evidence are used at the hearing,<sup>58</sup> and contract clauses may indicate the liberal procedure desired by the parties.<sup>59</sup> Arbitrators often visit the industrial scene<sup>60</sup> to view the performance of a particular job or otherwise to acquaint themselves directly with the matters at issue.

<sup>54</sup> Nearly always excluded in the Southern contracts studied is the question of a general wage increase or decrease. Compare this with national study showing only 14% of the contracts specifically excluding the general level of wages from arbitration. *Arbitration Provisions in Union Agreements in 1949*, 70 MONTHLY LAB. REV. 160, 162 (1950). Work loads and rates of pay excluded from arbitration. AGREEMENT, WOODSIDE MILLS AND TEXTILE WORKERS UNION OF AMERICA, CIO (Greenville, S. C., Mar. 22, 1949) p. 7. All disputes covered except merit increases and promotions of journeymen machinists. AGREEMENT, WRIGHT'S AUTOMATIC MACHINERY CO. AND INT'L ASS'N OF MACHINISTS (Durham, N. C., May 3, 1948) §16, p. 29. See footnote 41, *supra*.

<sup>55</sup> "The Board of Arbitration will base its determination of the matter upon scientific time studies and shall use the procedural methods used by the Corporation in determining standards and incentive premiums." AGREEMENT, AMERICAN ENKA CORP. AND UNITED TEXTILE WORKERS OF AMERICA, AFL (Asheville, N. C., May 26, 1950) Art. XII (B), p. 23. "In making his decision, the arbiter shall keep in mind the competitive situation. . . ." AGREEMENT AND SHOP RULES, COLUMBIA MILLS CO. AND TEXTILE WORKERS UNION OF AMERICA, CIO (Columbia, S. C., Aug. 22, 1949) §6 (b), p. 6.

<sup>56</sup> "All decisions shall be retroactive to the date the grievance was submitted to the plant superintendent in writing. . ." AGREEMENT, GOLDEN BELT MFG. CO. AND TEXTILE WORKERS UNION OF AMERICA, CIO (Durham, N. C., Mar. 22, 1949) §3, p. 4. No decision shall extend monetary benefits to an employee beyond 30 days after notice of arbitration. AGREEMENT AND SHOP RULES, PACIFIC MILLS AND TEXTILE WORKERS UNION OF AMERICA (Columbia, S. C., July 17, 1948) §5(f), p. 8.

<sup>57</sup> "... shall include his findings of fact and conclusions, shall be in writing. . ." AGREEMENT, ALEO MFG. CO. AND TEXTILE WORKERS UNION OF AMERICA, CIO (Rockingham, N. C., Aug. 15, 1949) Art. 9(6), p. 32. In labor arbitration practice, the awards are nearly always in writing. Compare this with the liberal common law attitude where the submission is not specific. *Ball-Thrash Co. v. McCormack*, 172 N. C. 677, 90 S. E. 916 (1916).

<sup>58</sup> See Singer, *Labor Arbitration—Use of Legal Rules of Evidence*, 2 LAB. L. J. 185 (1951). Cf. *Hurdle v. Stallings*, 109 N. C. 6, 13 S. E. 720 (1891) (no power to arbitrarily decline to receive evidence); *Pierce v. Perkins*, 17 N. C. 250 (1832) (cannot hear witnesses privately without other party being present.)

<sup>59</sup> Arbitrators "shall promptly make such investigation, hear such evidence or testimony and consider such matters as may be material. . . . Both the Company and the Union shall be afforded full opportunity to present such evidence as they may deem necessary, or as the arbiters shall request or demand." AGREEMENT, CONE MILLS CORP., TABARDREY PLANT AND TEXTILE WORKERS UNION OF AMERICA, CIO (Haw River, N. C., Dec. 6, 1950) §4(b), p. 6. The right to cross-examine is sometimes specifically provided for. AGREEMENT, AMERICAN ENKA CORP. AND UNITED TEXTILE WORKERS OF AMERICA, AFL (Asheville, N. C., May 26, 1950) Art. VI(E), p. 12.

<sup>60</sup> Land boundary disputes in common law arbitration frequently called for going upon the land in controversy. *Hemphill v. Gaither*, 180 N. C. 604, 105 S. E. 183 (1920); *Hurdle v. Stallings*, 109 N. C. 6, 13 S. E. 720 (1891); *Thompson v. Deans*, 59 N. C. 22 (1860).

The contract may require that the arbitrator have certain personal qualifications such as technical experience<sup>61</sup> or residence.<sup>62</sup> An analysis of the North Carolina Department of Labor's current twenty-member voluntary arbitration panel<sup>63</sup> gives some indication of the type of individuals engaged as arbitrators.<sup>64</sup> College professors, comprising fifteen members of the panel, handle nearly all the cases; only four members are practicing attorneys.<sup>65</sup>

If one party to a collective bargaining contract which provides for arbitration of future disputes refuses to arbitrate, specific performance is the only adequate remedy.<sup>66</sup> The North Carolina court has never squarely refused to enforce an agreement to arbitrate future disputes, but it has indicated by *dicta* that it would not do so.<sup>67</sup> The harsh common law rule of revocability, however, has been softened in its appli-

<sup>61</sup> See footnote 51, *supra*.

<sup>62</sup> Must be a resident of Tennessee, Georgia, North Carolina, or Alabama, but not a resident of six named counties near plant. AGREEMENT, DEBONAIR FULL-FASHIONED MILLS, INC. AND AMERICAN FEDERATION OF HOSIERY WORKERS (Cleveland, Tenn., Nov. 18, 1948) p. 14. Shall not reside within 100 miles of plant. AGREEMENT, AMERICAN ENKA CORP. AND UTWA-AFL (Asheville, N. C., May 26, 1950) Art. VI (E) (6), p. 11.

<sup>63</sup> Most members of the panel are widely used in the South by the American Arbitration Association, the Federal Mediation and Conciliation Service, or both.

<sup>64</sup> All are white males. This does not seem to be solely a regional manifestation. The National Academy of Arbitrators reportedly has no Negro and only two women members.

<sup>65</sup> One is a minister. None are merchants or businessmen. Three of the four practicing attorneys are not known to have done any arbitration, and are not on other panels. However, seven of the fifteen professors on the panel are teachers of law and are among the most active arbitrators. See N. C. DEPT OF LABOR, VOLUNTARY ARBITRATION: A SERVICE TO INDUSTRY AND LABOR 1-4 (1951). Attorneys do appear for one or both of the parties in a large percentage of the cases in the region. Cf. McDonald, *The Selection and Tenure of Arbitrators in Labor Disputes*, 1ST NYU ANN. CONF. ON LABOR 145, 149 (1948) indicating that lawyers dominate the field of labor arbitration in the New York City area; Warren and Bernstein, *A Profile of Labor Arbitration*, 4 IND. & LAB. REL. REV. 200, 205 (1951) showing a union preference for professors as compared with attorneys, and an exactly contra employer choice. Holmes foresaw the ideal lawyer of the future as "the man of statistics and the master of economics." HOLMES, COLL. LEG. PAPERS 187 (1920).

It may be that the local non-utilization of practicing attorneys as arbitrators has historical roots. Cf. WARREN, A HISTORY OF THE AMERICAN BAR 122, 211-239 (1911) for vigorously expressed anti-lawyer sentiment among farmers, especially in the western part of the State. The Laws of 1801 provided that "no attorney should be allowed to speak or admitted [*sic*] as counsel" before the then Supreme Court. Gilliam v. Saunders, 204 N. C. 206, 208, 167 S. E. 799, 800 (1933). Another facet of this sentiment was that laymen were appointed appellate judges, including John Williams, J., an "unlettered" carpenter. Battle, *History of the Supreme Court*, 103 N. C. 445, 470 (1889).

<sup>66</sup> Sanford v. Boston Edison Co., 316 Mass. 631, 56 N. E. 2d 1 (1944) (specific performance necessary to give members benefit of check-off provision of union contract). Most of the applicable statutes authorize the court, *inter alia*, to direct the parties to comply with the arbitration agreement. See COOK'S CASES ON EQUITY 456-462 (4th ed. 1948).

<sup>67</sup> See cases in footnote 17, *supra*.

cation and exceptions have been made to it.<sup>68</sup> In equity the particular circumstances have been taken into account and the right to revoke "this solemn agreement" has been made something less than an absolute right.<sup>69</sup> There have been intimations that the common law rule might not be followed, but in the cases so hinting, the issue was not squarely presented.<sup>70</sup> The facts in several holdings in which the court talked about the danger of being ousted of its jurisdiction involved individual plaintiffs who had agreed to arbitration by appointees of overpowering organizations.<sup>71</sup> In any event, to regard common law revocability as applying to agreements to arbitrate labor disputes is to invite the undermining of good labor relations in the plant.<sup>72</sup>

As has been seen, the 1951 revision<sup>73</sup> of the North Carolina labor arbitration act makes agreements to arbitrate future labor disputes irrevocable and enforceable. This integrates into the law the requirements and practices of daily labor relationships. Commendable improvements were made in various details of arbitration procedure. §95-36.9(a) provides for securing a stay prior to answer or demurrer in any court action pending "upon any issue referable to arbitration." However, §95-36.9(b) (c) is open to question. It authorizes a court stay of the arbitration proceedings on the ground that there has been no agreement to arbitrate the controversy involved, if application is made within ten days after notice of the issue. And it authorizes a court stay of the arbitration award on the ground that it exceeds the arbitrator's authority, if application is made within ten days after notice of the award. Failure to apply for a stay does not preclude raising the issue before the arbitrator or in enforcement proceedings, as the case may be. The

<sup>68</sup> The determination of a single fact or the amount of loss, as in insurance appraisal, is not against public policy. *Pioneer Mfg. Co. v. Phoenix Assurance Co.*, 106 N. C. 28, 10 S. E. 1057 (1890). See *Nelson v. Atlantic Coast Line R. R.*, 157 N. C. 194, 72 S. E. 998 (1911); *Braddy v. N. Y. Bowery Fire Ins. Co.*, 115 N. C. 354, 20 S. E. 477 (1894).

<sup>69</sup> Despite the common law rule, ". . . in a court of equity . . . the breaching of this solemn agreement [to arbitrate] will be considered as a strong circumstance, with other evidence, as to the right of the party who breached the agreement to have a receiver appointed." *Ellington v. Currie*, 193 N. C. 610, 137 S. E. 869 (1927).

<sup>70</sup> *Hargett v. Delisle*, 229 N. C. 384, 49 S. E. 2d 739 (1948); *Cox v. Hinshaw*, 228 N. C. 102, 44 S. E. 2d 532 (1947); *Ellington v. Currie*, 193 N. C. 610, 137 S. E. 869 (1927); *Long v. Cromer*, 181 N. C. 354, 107 S. E. 217 (1921); *Wynne v. Greenleaf-Johnson Lumber Co.*, 179 N. C. 320, 102 S. E. 403 (1920); *Pretzfelder & Co. v. Merchants Ins. Co.*, 116 N. C. 491, 21 S. E. 302 (1895); *Islay v. Stewart*, 20 N. C. 297 (1838); *Williams v. Wood*, 12 N. C. 82, 88 (1826) (opinion of Taylor, C.J.).

<sup>71</sup> *Kelly v. Trimont Lodge*, 154 N. C. 97, 69 S. E. 764 (1910); *Nelson v. Atlantic Coast Line R. R.*, 157 N. C. 194, 72 S. E. 998 (1911); s. c., 167 N. C. 185, 83 S. E. 322 (1914) (see Clark, C. J., dissenting opinion).

<sup>72</sup> See concurring opinion of Wolfe, J. in *Latter v. Holsum Bread Co.*, 108 Utah 364, 160 P. 2d 421 (1945); Note, 28 N. C. L. REV. 225, 228 (1950).

<sup>73</sup> C. 1103, 1951 N. C. Sess. Laws (§§95-36.1 to 95-36.10).

ten day limits are in keeping with the need for promptness. But will not the stay provisions operate to encourage court tests of arbitrability of issues, rather than, as heretofore, to leave arbitrability to be determined by men experienced in labor relations and functioning in a tribunal governed by the contract of the interested parties?<sup>74</sup> Moreover, why resort in such a hurry to a stay order, if the question of authority can be litigated at the enforcement stages?

A recent U. S. District Court decision in North Carolina<sup>75</sup> upholds the injunctive enforcement of agreements to arbitrate labor disputes under §301 of the Federal Labor-Management Relations Act.<sup>76</sup> This is based on a liberal construction of that statute as creating a new federal substantive right, independent of state law. It is supported by two U. S. Court of Appeals decisions.<sup>77</sup> Another device to effectuate the arbitration agreement, avoiding the common law doctrine of revocability and equity's tight adherence thereto, is the declaratory judgment.<sup>78</sup> A court's declaration in construing the agreement that the defendant is under a duty to arbitrate might get results without coercive relief. If that were needed, it could be supplied later. One potential lever, of course, is the resort to economic weapons.<sup>79</sup>

<sup>74</sup> The question of the arbitrator's jurisdiction or authority is often a preliminary issue at the hearing. For recent examples of such arbitration cases in North Carolina, see *In re* A. D. Julliard & Co., 15 L. A. 934 (1951); *In re* Caledonia Mills, Inc., 15 L. A. 474 (1950); *In re* Aleo Mfg. Co., 15 L. A. 715 (1950). The latter award was later subject to litigation in the case cited in footnote 75, *infra*. Few contracts specifically anticipate the right of the parties to go into court later, as does that in AGREEMENT, THOMAS CAR WORKS, INC. AND UNITED AUTO WORKERS, CIO (High Point, N. C., Feb. 15, 1949) Art. VI, p. 11, where the arbitration decision is "final and binding . . . provided that full legal rights of the parties in the courts shall not be restricted in any way."

<sup>75</sup> *Textile Workers Union of America v. Aleo Mfg. Co.*, 94 F. Supp. 626 (M. D., N. C. 1950). Another local complaint has been filed to enforce a collective bargaining contract, including its arbitration provisions. Raleigh (N. C.) News & Observer, April 12, 1951, §2, p. 29, col. 6.

<sup>76</sup> 61 STAT. 136, 29 U. S. C. §141 *et seq.* (Supp. 1947).

<sup>77</sup> *Shirley-Herman Co. v. International Hod Carriers*, 182 F. 2d 806 (2d Cir. 1950); *American Fed. of Labor v. Western Union Telegraph Co.*, 179 F. 2d 535 (6th Cir. 1950).

<sup>78</sup> *Oil Workers Int'l Union v. Texoma Natural Gas Co.*, 146 F. 2d 62 (5th Cir. 1944); *Textile Workers Union of America v. Aleo. Mfg. Co.*, 94 F. Supp. 626 (M. D., N. C. 1950); *Northland Greyhound Lines Inc. v. Amalgamated Ass'n*, 66 F. Supp. 431 (1946).

<sup>79</sup> This is succinctly stated in some contracts. "As to any dispute subject to arbitration, the Union agrees that it will not authorize or support any strike. . . . As to any dispute not subject to arbitration, the Company agrees that the Union . . . shall have the right to strike. . . ." AGREEMENT, A. D. JULLIARD & Co. AND TEXTILE WORKERS UNION OF AMERICA, CIO (Brookford, N. C., April 14, 1949) §XV(a)(b), p. 24. On enforcement of awards, the hint of potential economic force is sometimes equally clear. "Union reserves the right to strike if the Company fails to carry out the decision of the Arbitrator within 10 days after receipt of his decision in writing; the Company reserves the right to lockout. . . ." AGREEMENT, POWELL KNITTING CO. AND AMERICAN FEDERATION OF HOSIERY WORKERS (Spartanburg, S. C., Sept. 1, 1949) Art. X, p. 16.

What will be the scope of judicial review of labor arbitration awards under the new North Carolina statute? It contemplates two grounds:<sup>80</sup> arbitrability and the arbitrator's authority. The *Thomasville Chair* case,<sup>81</sup> which preceded the statute, involved only the latter. The Uniform Act codifies the usual common law grounds:<sup>82</sup> charges of bias, corruption, denial of due process and lack of authority, but, it is not directly applicable to labor arbitration. Perhaps the grounds mentioned would be available as at common law, as they are not excluded by the new act. Traditionally, however, the North Carolina Supreme Court has been liberal in sustaining arbitration awards and hearing procedures.<sup>83</sup>

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### Labor Law—Unemployment Compensation—Geographical Scope of Labor Dispute Disqualification

Due to a shortage of parts, which was caused by a strike of the United Auto Workers—C.I.O. local in Dearborn, Michigan, the Ford Motor Company closed its assembly plants throughout the country. These assembly plant employees, members of the U.A.W.-C.I.O., but of different locals, filed claims for unemployment compensation in at least four states.<sup>1</sup> From commission decisions allowing the claims,

<sup>80</sup> §95-36.9(c) of c. 1103, 1951 N. C. Sess. Laws.

<sup>81</sup> *Thomasville Chair Co. v. United Furniture Workers of America*, 233 N. C. 46, 62 S. E. 2d 535 (1950). In reviewing the scope of the arbitrator's authority, the narrow common law attitude toward the role of compromise, as expressed in *Cutler v. Cutler*, 169 N. C. 482, 86 S. E. 301 (1915), would hardly apply to labor disputes. This may be expressly set out in the contract. The arbitrator "is not bound to render a 'Yes' or 'No' decision." AGREEMENT, HILLCREST HOSIERY MILLS AND AMERICAN FEDERATION OF HOSIERY WORKERS (Durham, N. C., Mar. 12, 1949) §3 (b), p. 7.

<sup>82</sup> N. C. GEN. STAT. §1-559 (1943). See UPDEGRAFF AND MCCOY, *ARBITRATION OF LABOR DISPUTES* 126-28 (1946).

<sup>83</sup> *Bryson v. Higdon*, 222 N. C. 17, 21 S. E. 2d 836 (1942). "Anciently, the construction of awards often turned on nice and subtle distinctions, and much refinement . . . but a more liberal and sensible method has been introduced, and the judges have invariably laid it down that the courts will intend everything to support the awards. . . ." *Clark Millinery Co. v. National Union Fire Insurance Co.*, 160 N. C. 130, 139, 75 S. E. 944, 948 (1912). "There is no right of appeal, and this court has no power to revise the decision of judges who are of the parties' own choosing. An award is intended to settle the matter in controversy and thus save the expense of litigation. If a mistake be a sufficient ground for setting aside an award it opens the door for coming into court in almost every case . . . and arbitration instead of ending would tend to increase and encourage litigation." *Eaton v. Eaton*, 43 N. C. 102, 105 (1851).

<sup>1</sup> Georgia, Minnesota, New Jersey, and Virginia.

For discussion of disqualification due to a labor dispute in general see, 17 U. OF CHICAGO L. REV. 294 (1950); 49 COL. L. REV. 550 (1949); 33 MINN. L. REV. 758 (1949); 49 YALE L. J. 461 (1940); 55 YALE L. J. 167 (1945). See also, 49 MICH. L. REV. 886 (1951) for discussion of the "Effect of the Merits of A Labor Dispute on the Right to Benefits."