



Perspective

International Arbitration: A Page of History

BY JUDITH KAYE

As I look to the week's schedule, I am (again) overwhelmed by the plethora of international arbitration events all around us, beginning today with PLI's full-day seminar featuring national and international luminaries, then on Wednesday the New York International Arbitration Center's program on Ethics in International Arbitration, followed by Fordham's Annual Law School Conference on International Arbitration on Thursday and Friday. And there's so much more.

My purpose in writing is not, however, to look ahead. Rather, I want to look back on a recent family visit to Mohonk Mountain House (Exit 18 off the New York State Thruway). For my family this was the 36th anniversary of several visits a year. We first discovered Mohonk in 1978, and over the decades have encountered many fellow Law Journal fans, even attended judicial and bar conferences there. But this was a distinctly different experience, leading me to reflect on what the eye sees and sometimes does not or, put another way, how much of what we see is actually dictated by the brain. Or maybe in the end, my reflection is just an acknowledgment of my own brain dysfunction.

Yes, I can identify Mohonk's spectacular topology, plant and human life, having extensively explored its 2,500 wooded acres. But never before had I seen Mohonk as a birthplace of worldwide international arbitration. Now I do.

Only last week, one of the ancient framed photographs lining the walls for the first time caught my attention. It was, of all things, a photo of the Mohonk Conference on Inter-

national Arbitration, featuring hundreds of tuxedoed, bearded gentlemen (a few ladies too) from around the world squeezed into what is today known as The Parlor Room. This was a photo of one of 22 annual conferences that began at Mohonk in 1895. Pity that Albert Smiley, one of Mohonk's founding brothers, died in 1912—he missed receiving the Nobel Peace Prize that year for his efforts in worldwide dispute resolution.

That chance photo encounter for the first time led me to Mohonk's on-site archives and Archivist, Nell Boucher, as well as a pathway to Swarthmore College, where 22 years of Mohonk's assiduously collected international arbitration papers are stored.

It was hardly a surprise that the Smileys, devout Quakers, harbored a desire to promote world peace rather than wage war. But what a pleasure it was to discover that in addition, so many of our current significant dispute resolution initiatives trace their origins to Mohonk—the American Society of International Law and the Hague Conference movement, to name just two. Mohonk's call for a permanent international tribunal actually predated the Hague Conferences by four years.

For Mohonk, management of the conferences became a year-round endeavor, including promotion of industrial arbitration through trade associations, national essay and oratorical contests, and dissemination of literature on international arbitration throughout the world. The conference tradition apparently was to work mornings and evenings, and have the afternoons off for recreation. Not bad.

Indeed, in his opening remarks in 1895 Albert Smiley asked that discussion not be restricted to the subject of the horrors of war but instead focus on “the means by which our country might have all her disputes with foreign lands settled by arbitration, and might bring other nations to join her as rapidly as possible.”

And talk of coincidences! In remarks that precipitated a resolution favoring a permanent court of arbitration, Dr. Edward Everett Hale refers to resolution of disputes regarding (of all things) the murder of seals. Amazingly, on June 4, 2014—the precise 119th anniversary of Dr. Hale's remarks—in the publication ASIL Insights I find a report of the Appellate Body of the World Trade Organization (WTO) resolving a dispute between Canada and Norway regarding the importation and marketing of seal products. Still a raging issue, despite the passage of more than a century.

I can only imagine what today's world would have looked like had all the lofty goals of the Mohonk Conference on International Arbitration come to fruition. Thankfully, many have.

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