Subcontracting Clauses in Major Collective Bargaining Agreements

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UNITED STATES DEPARTMENT OF LABOR
Arthur J. Goldberg, Secretary

BUREAU OF LABOR STATISTICS
Ewan Clague, Commissioner

Preface

The prevalence and characteristics of subcontracting provisions in major collective bargaining agreements in effect in early 1959 are described in this bulletin. Amendments to the Taft-Hartley Act contained in the Labor-Management Reporting and Disclosure Act, 1959, particularly section 8(e) pertaining to "hot cargo" agreements, may have an effect in later years on contract provisions. The study serves as a benchmark against which later studies might measure the changes resulting from law, as well as those resulting from collective bargaining practices.

For this study, 1,687 collective bargaining agreements covering 1,000 or more workers each were analyzed. These agreements applied to approximately 7.5 million workers, or almost half the estimated coverage of all collective bargaining agreements, exclusive of those in the railroad and airline industries.

All agreements studied were part of the Bureau's file of current agreements maintained for public and governmental use under the provisions of the Labor Management Relations Act of 1947, as amended. The provisions of agreements covering 1,000 or more workers do not necessarily reflect policy in smaller collective bargaining situations or in large or small unorganized firms.

The study was conducted and this report was prepared by Leon E. Lunden, with the assistance of Henry S. Rosenbloom, under the supervision of Harry P. Cohany in the Bureau's Division of Wages and Industrial Relations.
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Subcontracting Clauses in Major Collective Bargaining Agreements

Part I

Subcontracting, or contracting out, is a long-standing industrial practice. In the apparel and construction industries, it is an integral part of normal operations; in other industries, a decision whether it is more advantageous to have a particular job or type of work done by its own work force or by outsiders under contract is one which management is frequently called upon to make. The building trades and apparel unions have long maintained a substantial degree of control of the subcontracting system, but the procedures in these industries have no match among other organized industries.

Union attitudes towards subcontracting, in general, tend to stiffen when employment declines and when contracting out removes work that customarily "belonged" in the bargaining unit. Not only are members' jobs at stake, but concern over union jurisdiction and the possibility that subcontracting may be used to evade or dilute the terms of the collective bargaining agreement are often present. The issue has also been sharpened by conflicts between industrial and building trades unions as to whose members are to be employed on construction and maintenance work within industrial plants. As a result, some unions have increasingly pressed for contract clauses governing subcontracting.

Management tends to resist negotiating such rules as an encroachment on its prerogatives. A few agreements explicitly include, in so-called "management rights" clauses, a provision that decisions regarding subcontracting are among management's unrestricted prerogatives, but the low incidence of such statements is of little significance in view of the widespread reluctance on the part of management to define all management rights in a collective bargaining agreement.

As this study reveals, fewer than one out of four major agreements in effect in 1959 made any reference to subcontracting, and they handled the problems of preserving employment opportunities and protecting agreement standards in diverse ways. A number of agreements established controls related directly to in-plant workers, such as barring subcontracting either when workers were on layoff or when letting the contract would cause layoffs or part-time work. Other agreements approached the job preservation goal by allowing subcontracting only when management had some compelling reason connected with skill and equipment requirements, production schedules, or cost considerations. In protecting in-plant wages, hours, and working conditions, a significant number of clauses required the subcontractor either to comply with the prime employer's collective bargaining agreement or to sign a union contract himself. Some subcontracting controls, for example, those requiring prior consultation with the union, could serve both purposes, since they afford the union an opportunity to marshal arguments for keeping work in the plant or check on the status of the subcontractor to make sure that he was not undercutting union standards. Some clauses were so vague as to give little, if any, clue as to the nature of the understanding between the parties.

In the absence of a subcontracting clause in the agreement, does the employer have a free hand in subcontracting as he pleases? Some unions have disputed this, and arbitrators to whom such disputes have been referred differed in their decisions and reasons. Three lines of reasoning are discernible. In one camp are those who hold that if management's right to subcontract was to be abridged, a specific clause would have been written to that effect. This point of view was expressed in a recent decision as follows:

In summary, however, the arbitrator must find that a clear understanding exists in the field of labor-management relations that where the parties intend to prevent subcontracting such a specific provision is incorporated in contracts to limit management's right in this matter. 1

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1 Minneapolis-Moline Co. v. United Automobile Workers, 331A805.
Other arbitrators have decided that subcontracting is barred when it would violate the recognition clause, the seniority clause, or any other general provision of the contract. For example, it is reasoned, when the company agrees with the union provision of the contract. For example, it is clause, the seniority clause, or any other general company rested on these grounds:

... Accordingly the issue here is not the right of the company to remove one janitorial job. Rather the company is inevitably posing the question of its right under paragraph 51 [the management rights clause] to remove jobs from the bargaining unit whenever it can subcontract them at less than contract rate.

Such a broad interpretation of paragraph 51 would, in effect, include in this contract provision the right to emasculate the bargaining unit and is therefore in direct conflict with the recognition clause. Therefore, the company's subcontracting of janitorial work cannot be sustained.²

Some recent arbitration decisions have reflected a third position, namely, that in the absence of a contract clause prohibiting subcontracting there is still an implied limit on subcontracting, but not an absolute prohibition. The circumstances in each case would determine whether subcontracting constituted a violation of the agreement. One arbitrator reasoned as follows:

I do not mean to suggest that past practice and recent negotiating history necessarily refute the union's claim on behalf of an implied limitation on the company's power to subcontract ... Even without an explicit limitation some kind of implied limitation arises out of the very nature of a collective bargaining agreement. However, this history [of the company's purchases of electric power] and the specific limitation on purchasing [electric] power to which it finally led should be borne in mind in giving consideration to the scope of any implied provision against contracting out which one may be inclined to draw.³

The arbitrator then went on to explain that as long as contracting out did not threaten the integrity of the bargaining unit, the particular circumstances, as in the case before him, governed, and the company could contract out.

Summarizing the opinions commonly expressed as to whether a subcontracting dispute is arbitrable in the absence of specific agreement, one arbitrator noted that "The effort to squelch the issue at the threshold ... has been pretty well settled in favor of arbitrability."³ In mid-1960, the U.S. Supreme Court upheld this contention in a case involving the United Steelworkers and the Warrior and Gulf Navigation Co.⁴ Reasoning that grievance and arbitration procedures in collective bargaining agreements effectuated congressional policy of promoting industrial peace, the Court concluded, first, that under section 301 of the Labor-Management Relations Act of 1947 an order to arbitrate could not be denied unless there was forceful evidence that a certain matter was to be excluded from arbitration, and, second, that "doubts should be resolved in favor of coverage." The Court found no such forceful evidence in the case before it. On the other hand, there remained the issue of whether the collective bargaining agreement had been violated, on which the Court said:

... There was, therefore, a dispute 'as to the meaning and application of the provision of this agreement' which the parties had agreed would be determined by arbitration. The judiciary sits in these cases to bring into operation an arbitral process which substitutes a regime of peaceful settlement for the older regime of industrial conflict. Whether contracting out in the present case violated the agreement is the question. It is a question for the arbiter, not for the courts.

Scope and Method

For this study, the Bureau of Labor Statistics examined 1,687 major collective bargaining agreements covering 1,000 or more workers each, or virtually all agreements of this size in the United States exclusive of those in the railroad and airline industries.⁵ These agreements applied to approximately 7.5 million workers—almost half the number estimated to be under collective bargaining agreements except those in the railroad and airline industries. About 4.6 million workers were covered by 1,063 contracts in manufacturing and 2.9 million were covered by 624 contracts in nonmanufacturing industries. All contracts were in effect at the beginning of 1959.

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² Gulf Oil Corp. v. Oil, Chemical and Atomic Workers, 33LA215.
³ Kennecott Copper Corp. v. International Brotherhood of Electrical Workers, 24LA758.
⁴ United Automobile Workers v. Black-Clawson Co. 34LA758.
⁵ 333 U.S. 574.
⁶ The Bureau does not maintain a file of railroad and airline agreements hence their omission from this study.
For the purposes of analysis, provisions regulating subcontracting were classified into three categories: (1) those pertaining solely to the contracting out of construction, maintenance, and installation services; (2) those referring to the contracting out of part of the production process or of the major activity; and (3) those dealing with both types of subcontracting.

A variety of contract provisions having certain features relevant to subcontracting were considered to be outside the scope of the study. For instance, clauses that banned converting a worker from an employee into a subcontractor (prevalent in the construction industry) were omitted, as were bans on "home work" (apparel). Other regulatory clauses excluded from the study were those relating to concession and leasing arrangements in retail establishments by manufacturers or distributors, and to commission work, frequently practiced, for example, in the cleaning and dyeing industry.

Regulation of Subcontracting

Among the 1,687 agreements studied, there were 378 with limitations on subcontracting, only 4 of which prohibited the practice outright. (See table.) Five did not specify the nature of the restriction. The remaining 369 agreements permitted management to subcontract, subject to certain conditions or limitations. On the other hand, 1,309 agreements made no reference to limiting subcontracting, among them were 4 that specifically included contracting out among management's unrestricted prerogatives.

One of the four clauses expressly prohibiting contracting out was stated as follows:

No contracting within the firm or subcontracting between firms shall be permitted.

The following excerpts from textile and paper products agreements illustrate how the assertion of management's unlimited right is treated:

It is recognized and agreed that the management of the plant and the direction of the working force is vested in the company. Among the rights and responsibilities which shall continue to be vested in the company, but not intended as a wholly exclusive list of them, shall be: The right to increase or decrease operations; to remove or install machinery; to determine schedules of production; . . . and to contract work in its discretion.

It is understood that the company may employ outside contractors to perform work in the mill.

Of the 369 agreements with specific limitations, 232 were concerned with subcontracting of part of the production process or the major activity of the employer, 51 referred solely to the contracting out of construction, maintenance, and installation services, and 86 regulated subcontracting in both areas. Most of the 318 clauses which regulated subcontracting of either the production process or the major activity were found in nonmanufacturing industries, primarily construction (79), electric and gas utilities (44), transportation (23), and communications (20). However, clauses also appeared in the apparel (42), transportation equipment (17), and petroleum refining (12) industries.

The 137 clauses concerned with construction, maintenance, and installation services were more prevalent in manufacturing than in nonmanufacturing, appearing mainly in transportation equipment (20) and petroleum refining (10). The transportation equipment agreements, including several very large contracts, covered approximately 640,000 workers, or slightly more than half of the 1.2 million workers covered by agreements with construction subcontracting clauses. Electric and gas utilities, alone among

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1 Thirty-eight agreements permitting subcontracting under certain conditions were so vague that categorizing them into the three groups noted above raised particular difficulties. Allocation was achieved by examining the makeup of the bargaining unit as well as the practices of the industry as reflected in other clauses.

A number of agreements in petroleum refining, electric and gas utilities, and communications specifically mentioned construction and maintenance subcontracting, but were classified as "production" or "major activity" subcontracting, since construction and maintenance of oil and gas pipelines and electric power and communications networks were considered an integral part of the production process or major activity.

8 Prohibitions against members becoming subcontractors were also noted in a small number of union constitutions, usually those of construction unions. Typical is the following section from the Carpenters' constitution: "No member of the United Brotherhood shall lump, subcontract or work at piecework for any owner, builder, contractor, manufacturer, or employer. For a violation of this paragraph or any part of it the member shall be fined not less than $10 or be expelled."

Other unions having similar constitutional bans include the Plumbers, Journeymen Stone Cutters, Asbestos Workers, Boilermakers, Bricklayers, Painters, and Jewelry Workers.

9 Another approach to subcontracting outside the scope of this study was letters of intent that set forth understanding and company policy in this area, discussed by Donald A. Crawford and Leonard Sayles in the Conference Proceedings on Industrial Relations in the 1960's—Problems and Prospects to be published soon by the Wharton School of Finance and Commerce. As an example, Crawford cited at length the General Motors letter to its general managers on subcontracting maintenance and certain tool and die work. He also noted that letters of intent often represent a voluntary restriction by management on its own freedom to contract out, which sometimes goes beyond arbitration awards or contract language negotiated by union and management. According to Professor Sayles, letters of intent are "pervasive."
### Prevalence of Subcontracting Limitation Clauses in Major Collective Bargaining Agreements, by Industry, 1959

<table>
<thead>
<tr>
<th>Industry</th>
<th>Number studied</th>
<th>Conditions or limitations on subcontracting of—</th>
<th>Subcontracting specifically prohibited</th>
<th>Nature of restrictions unspecified</th>
<th>No reference to subcontracting</th>
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<td>Agreements</td>
<td>Workers (thousands)</td>
<td>Construction, maintenance, and installation services</td>
<td>Both production process and services</td>
<td>Subcontracting prohibited</td>
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<td>All industries</td>
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<td>4,555.3</td>
<td>74</td>
<td>406.2</td>
<td>49</td>
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<td>4,555.3</td>
<td>74</td>
<td>406.2</td>
<td>49</td>
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<td>Ordnance and accessories</td>
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<td>39.4</td>
<td>1</td>
<td>1.1</td>
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<td>Food and kindred products</td>
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<td>465.8</td>
<td>7</td>
<td>30.2</td>
<td>3</td>
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<td>Tobacco manufactures</td>
<td>11</td>
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<td>4.0</td>
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<td>Textile mill products</td>
<td>33</td>
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<td>4</td>
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<td>Apparel and other finished products</td>
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<td>Lumber and wood products, except furniture</td>
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<td>37.2</td>
<td>1</td>
<td>4.0</td>
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<td>Furniture and fixtures</td>
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<td>1</td>
<td>2.5</td>
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<td>Paper and allied products</td>
<td>54</td>
<td>118.0</td>
<td>4</td>
<td>1.6</td>
<td>2</td>
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<td>Printing, publishing, and allied industries</td>
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<td>1.4</td>
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<td>Chemicals and allied products</td>
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<td>113.6</td>
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<td>1.2</td>
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<td>Petroleum refining and related industries</td>
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<td>5.7</td>
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<td>Rubber and miscellaneous plastic products</td>
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<td>3.1</td>
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<td>Leather and leather products</td>
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<td>14.8</td>
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<td>Stone, clay, and glass products</td>
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<td>100.8</td>
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<td>6.4</td>
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<td>Machinery, except electrical</td>
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<td>283.9</td>
<td>4</td>
<td>2.4</td>
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<td>Electrical machinery, equipment, and supplies</td>
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<td>6</td>
<td>14.9</td>
<td>9</td>
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<td>Instruments and related products</td>
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<td>54.7</td>
<td>2</td>
<td>27.7</td>
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<td>Nonmanufacturing</td>
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<td>921.4</td>
<td>9</td>
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<td>Mining, crude petroleum, and natural gas production</td>
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<td>252.7</td>
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<td>Transportation</td>
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<td>573.2</td>
<td>19</td>
<td>228.3</td>
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<td>558.1</td>
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<td>190.1</td>
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<td>Services</td>
<td>85</td>
<td>244.1</td>
<td>5</td>
<td>18.7</td>
<td>-</td>
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<td>Construction</td>
<td>155</td>
<td>791.9</td>
<td>79</td>
<td>441.1</td>
<td>-</td>
</tr>
<tr>
<td>Miscellaneous nonmanufacturing industries</td>
<td>5</td>
<td>7.4</td>
<td>1</td>
<td>2.5</td>
<td>-</td>
</tr>
</tbody>
</table>

1 Includes 4 agreements that specifically include subcontracting among unrestricted management prerogatives.
2 A companywide agreement that delegates authority to negotiate on subcontracting to the local plant level.
3 Excludes railroad and airline industries.
4 Agreements disallow subcontracting of labor services only and working for a lump sum payment for a specific job, but do not restrict subcontracting that includes both labor services and materials.
5 Agreements prohibit subcontracting among labor services only.
6 Note: Because of rounding, sums of individual items may not equal totals.
the nonmanufacturing industries, had a significant concentration of clauses in this area (19).

Affiliates of 56 national and international unions were party to major agreements which regulated subcontracting. The three most active in writing such provisions were the International Brotherhood of Teamsters (42), the International Brotherhood of Electrical Workers (34), and the International Ladies’ Garment Workers’ Union (34). Other frequent negotiators were the United Automobile Workers (20), Hod Carriers (17), Carpenters (15), Oil, Chemical and Atomic Workers (14), Steelworkers (15), Communication Workers (12), Operating Engineers (10), and Machinists (10). Although the Amalgamated Clothing Workers held only eight subcontracting agreements, one of these—with the Clothing Manufacturers Association of the United States of America—was a national agreement in the men’s and boys’ clothing industry covering 150,000 workers.

Construction and Other Services

Subcontracting provisions concerned with construction, maintenance, and installation services stressed preservation of job opportunities by setting prior conditions for management to meet, in contrast to the protection of contract standards treatment used, as will be noted in part II of this study, in construction and apparel contracts. The more common provisions dealt with layoff, the union voice in the subcontracting decision, and skill and equipment requirements. 10

Employment Effects. A substantial number of agreements prohibited subcontracting when qualified in-plant workers were already on layoff or on part time, or when layoff or part time would result. Under a few clauses, in-plant workers must be fully supplied with work for subcontracting to be permissible. Several provisions allowed the company to exercise its subcontracting right provided that it would use its best effort to place its employees who are laid off or on part time with the subcontractor. In stone, clay, and glass products and in chemicals, clauses including this proviso were identical in language; the remaining clauses, all in petroleum refining, were similar in content. Examples of both are presented above. Note that, in both, the prime employer’s liability is limited to “qualified” employees:

If a contract is let by the company for any repairs or construction work, the company will attempt fairly to employ directly or, if practical, through any contractor, as many idle employees as is possible, provided they are qualified for the work available, in making repairs to buildings, tanks and equipment, or in building new structures... *

When contract work is necessary, the employer will use its best efforts with the contractor to secure employment on the contract work for former employees laid off not more than 180 days (but not including discharged employees) of the employer who are qualified and who may be available for such work.

In a few clauses, mainly found in Steelworker agreements, management agreed to a general policy of giving preference for maintenance and construction work to the bargaining unit, as for example, in the following electrical machinery provision:

Outside Contract of Work in Plants. The employees covered by this agreement shall be given preference for maintenance and construction work in the plant to the fullest extent practicable.

Upgrading of jobs to keep work in the plant was mentioned in one agreement:

(1) So far as possible, with the work force available, minor construction and all maintenance jobs will be performed by [the company’s] work force.

(2) So long as it is consistent with maintaining good operations, management will attempt to upgrade craft and trade jobs to perform the work as mentioned in the above paragraph.

Notice to Union. Numerous clauses allowed the union to participate in the making of subcontracting decisions. Only one agreement banned subcontracting without union approval and one called for notice after a contract had already been let; the largest number required simply that the union be notified or consulted. Some did not specify whether notice had to be given before or after the decision; these were found in the chemical, glass, machinery, electrical machinery, transportation equipment, communications, and utilities agreements. Typical of the clauses where the timing of notice was not explicit were the following machinery and electrical machinery provisions:

If it shall become necessary to use outside contractors to perform work in the plant normally performed by our employees, the union shall be notified and given the reason why [the company] is required to have outside contractors enter the plant.
The company agrees to keep the union informed of the status and scope of its subcontracting program.

By far the larger number of clauses, however, required advance notice of subcontracting. Fully one-third of the agreements containing this proviso were concentrated in the transportation equipment industry, from which the following examples are cited:

When plant maintenance or construction work is let to outside contractors, the corporation will, before the work is started in the plant, give reasonable notice to the union of the nature of the work and the reason for such action.

Before bringing outside general contractors into the plant for changeover and other construction work, the company will discuss the matter with the shop committee and inform them of the nature of the work expected to be performed.

Most clauses defined the union body to be notified. Typically they were the shop committee, union scale committee, union executive board, chief department steward and the union incentive committee, business managers of the union, or the workmen’s committee. Two clauses provided for expansion of standing labor-management committees when subcontracting was to be discussed. One required that supervisors directly involved in the decisionmaking participate in the discussion along with the industrial relations manager; the other gave the union the right to include its grievance committee along with its department steward in subcontracting discussions.

Only one agreement required that the prior notice be in writing:

Before awarding to outsiders contracts for major alterations to buildings or equipment, or contracts for new buildings or equipment, the company will notify the union in writing.

Three agreements specified length of notice the company must give before letting a contract. One required 10 days’ notice, a second established a regular weekly review of “the circumstances involved in the propriety of awarding particular contracts,” and the third called for quarterly meetings to discuss such matters.

Overtime and Other Special Rules. In three situations, the use of subcontractors was discouraged by requiring the company to pay overtime, for a “sixth day” or a “48-hour week,” to inplant workers with the same skills as the subcontractor’s employees, as for example, in the following food agreement:

Mechanical workers shall be scheduled on a 48-hour or more week as long as an outside contractor is in the plant doing work of a mechanical nature except for permissible contract work set forth below . . .

Other clauses called for overtime for corresponding in-plant workers when the subcontractor’s crew worked overtime:

When outside contractors are required to perform work in the plant on an overtime basis, employees who customarily perform the same work will be given equal opportunity for overtime work except for the following: (a) new construction, (b) erection of large fixtures built outside the plant, (c) work which of necessity must be performed during nonoperating hours.

Exclusions similar to those indicated in the latter clause were found in all agreements that granted overtime to in-plant workers when the subcontractor’s crew was on overtime.

Some clauses, whose meaning is not explicit, created a general commitment on the part of the employer to take “worker interests” into account. A majority of such clauses were included in the management prerogative section of the agreement, as, for example, in this electrical machinery agreement:

The union recognizes that there are functions, powers, and authorities that belong solely to the company, prominent among which, but by no means wholly inclusive, are the functions of introducing new or improved production methods or equipment . . . as well as the assignment of work to outside contractors after due consideration by the company to the interests of the regular employees.

Of the clauses which defined worker interests, only one required the company to provide “full information to the union committee regarding reasons for assignment of work to outside contractors.”

Three clauses addressed themselves to the relationship between employees of the prime employer and those of the subcontractor. In one glass agreement, company maintenance employees were allowed to refuse an assignment which would require them to work with the subcontractor’s employees. Another glass agreement made the same allowance, but recognized that at times such work might be “desirable” from a company view-
point, in which case there would be negotiations for a "temporary adjusted rate":

When construction work is being performed by outside contractors, company employees are not to be required to work in conjunction with contractors' employees.

In situations where the company considers it desirable to employ its own maintenance employees in construction work in conjunction with contractors' employees, the union and the company are to negotiate and agree as to whether or not such employees are to be paid at a temporary adjusted rate.

A number of provisions, distributed primarily among the transportation equipment, chemicals, food, and glass industries, allowed subcontracting where either specialized equipment, specialized skills, or both, were needed. The following machinery clause is an example:

The company recognizes that one of its responsibilities is to keep the present work force working at least the hours justed rate.

It is agreed that whenever proper equipment and employees are available, the company will not contract out repair or maintenance work . . .

* * *

It is agreed that whenever proper equipment and employees are available, the company will not subcontract . . .

* * *

The corporation agrees, as a policy, to refrain from having maintenance, installation, and construction work done in its plants by the employees of others, or from sending such work to outside concerns, when there are employees and facilities in the plants capable of doing this work . . .

In the following clause, the adequacy of supervision is also a factor:

This clause is not intended to restrict the company in its right to let contracts . . . when it feels it necessary or expedient to do so, such as not having the necessary equipment or supervision . . .

Several agreements established limitations based upon production and cost considerations. Some prohibited subcontracting except during peak periods or emergencies, while the remainder were concerned with the lack of room for additional help, the inability to meet an established delivery date, and maintaining good customer and public relations. Additional provisions allowed subcontracting where it represented savings in cost or time or improved the efficiency of the operations.

As previously noted, a number of the subcontracting provisions for construction, maintenance, and installation work were concerned with safeguards for the in-plant workers' wages, hours, and conditions. Among these, a few required the subcontractor to be under union contract, a few demanded compliance with the prime employer's agreement, and two prohibited contracting out when the purpose was evasion of the prime employer's contract.

Several provisions required the subcontractor to employ union labor and to use union-made material. On the other hand, one utility agreement specified that the employees of subcontractors did not have to be union members. Another clause compelled the subcontractor to live up to general union standards, and 15—the largest concentration of provisions attempting to protect work standards—provided that subcontractors' employees must receive either prevailing area wages or not less than the contract minimums, as illustrated in the following utility contract:

Where the [company] enters into contracts for the performance of work which requires the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings, dams, locks, or other projects, such contracts shall contain a provision that not less than prevailing rates of pay for work of a similar nature prevailing in the vicinity shall be paid to such employees of the contractor, which rates shall not be less than the rates paid by [the company] . . . to its employees doing similar work.

Other contracts took the opposite stand, specifically stating that the prime employer would not be responsible for the wages, hours, and working conditions established by its subcontractors:

The company will not undertake to regulate the conditions of employment which may prevail under outside contracts or subcontracts covering such construction, building, or maintenance.

Finally, a few petroleum refining agreements protected the seniority of any in-plant employee.
who might work for one of his employer's sub-contractors while on temporary leave of absence:

Employees granted leaves of absence to work for a contractor performing services for the employer shall retain their seniority on the same basis as though they had continued to work for the employer. 11

Major Versus Routine Services. A number of agreements differentiated between major or new construction, maintenance, and repair work and that which was “normal” or “routine.” Typically, such clauses reserved normal work for in-plant workers and allowed major or new construction and repair to be contracted out:

So far as possible with the work force available, minor construction and all maintenance jobs will be performed by [the company's] work force.

* * *

No job shall be let to outside contractors, other than major construction and major repair, and fabrication, installation, and use of patented or highly specialized equipment . . .

The company shall have the right to contract with outside contractors for maintenance, construction, and repair work when in the judgment of the company such services are required . . . The company will not contract routine maintenance work when sufficient qualified employees are available on the payroll to do the work . . .

This policy of allocating the work according to whether it was major or normal and routine parallels jurisdictional agreements worked out between the building trades and industrial unions in several local situations. 12

11 See sample in appendix III.
12 Such agreements were reached between the building trades and the United Automobile Workers in Detroit, several industrial unions in Connecticut, and the Steelworkers in Youngstown, Ohio.
Subcontracting Clauses in Major Collective Bargaining Agreements

Part II

Production Process or Major Activity

Provisions regulating subcontracting of any part of the production processes or major activity of the employer were found in 318 of the 378 major agreements having subcontracting clauses. (See p. 582, June issue.) The construction and apparel industries, with a long history of such arrangements, have worked out elaborate clauses controlling contracting out.

Construction. In the construction industry, subcontracting is generally accepted by unions and employers as a normal condition of work. Few provisions were found that attempted to preserve job opportunities by creating certain conditions under which management could contract out. For example, only one clause prohibited subcontracting if it would result in layoff, and a very small number required the company to notify the union in advance of subcontracting or to subcontract only after receiving union approval. On the other hand, the protection of contract standards was of major interest. The most common restrictions required the subcontractor to comply with the terms of the prime employer's contract, to have a union agreement of his own, or to employ union labor and use union-made material.

The single most frequent requirement, found in more than 50 major contracts, called for the subcontractor to comply with all the terms and conditions of the prime employer's agreement. This provision “blankets in” the subcontractor, no matter what project he works on in the local union's jurisdiction or which prime employer he works for. Here are two examples of how such contract-compliance clauses are worded:

Any subcontractor on the site shall be covered by the conditions of this agreement.

The terms and conditions of this agreement, insofar as it affects . . . the individual employer, shall apply equally to any subcontractor under the control of or working under contract with such individual employer on any work covered by this agreement, and said subcontractor with respect to such work shall be considered the same as an individual employer covered hereby.

A number of clauses in this category required written guarantees of subcontractor compliance. Some stipulated that the subcontractor must either sign the prime employer's collective bargaining agreement or a “short form” contract (a pledge of compliance), while others obligated the prime employer to insert a clause into the subcontract requiring the subcontractor to comply with the collective bargaining contract. Both are illustrated below:

Any employer or shop signed to this agreement shall not sublet to or from any . . . company . . . unless the work to be performed is performed under the terms of this contract, and the employer whose employees perform such work is either signatory to this contract or has signed a short form contract which requires acceptance of and being bound by all the terms and conditions of this contract.

That if the contractors, parties hereto, shall subcontract work as defined herein, provision shall be made in said subcontract for the observance by said subcontractors of the terms of this agreement.

While the great majority of these compliance clauses required rigid observance of the prime employer's contract, a smaller number established the prime employer's labor agreement only as a standard below which wages, hours, or working conditions for the subcontractor's employees could not fall. Some contracts required the subcontractor to grant “equivalent” terms or conditions “no less than” those of the prime employer. In other provisions, compliance with the wage schedule was required, while the prime employer was duty bound to try to achieve observance of the
rest of the contract. Illustrated below is a provision requiring the subcontractor to comply with terms "no less than" those in the prime employer's agreement:

If the employers, parties hereto, subcontract jobsite work, provision shall be made in such subcontract for the compliance by the subcontractor with terms not less than those contained herein.

Closely allied to this approach was a second large group of construction industry contracts which required the subcontractor to be under agreement with the same local, with another local of the same international union, with a recognized building trades union, or with an AFL-CIO affiliate. Such clauses are further discussed under the following section covering the apparel industries.

Provisions requiring the subcontractor to employ union labor or use union-made materials, or both, comprised a third group of limitations upon construction industry subcontracting. Among clauses specifying the use of union labor, one simply stated that the subcontractor must employ union members; others tailored their language to fit the particular crafts involved; and in one instance, the subcontractor agreed to hire at least 75 percent of his workers through the union's hiring hall. In its simplest form, the union labor limitation read as follows:

A member of the union shall be employed on all subcontracts made by the general contractor or by the successor or assign of the general contractor on work where the services of an engineer, apprentice engineer, foreman, oiler, or mechanic is necessary.

Those provisions which required the use of union-made material—so-called "hot cargo" type clauses—were designed to facilitate mutual aid among unions in maintaining union standards. Although such clauses were banned by the Labor-Management Reporting and Disclosure Act of 1959, certain exceptions were written into the act for the construction and apparel industries.13 In marked contrast to previously cited clauses, those attempting to ban the use of nonunion materials were almost identically phrased. Such familiar terms as "nonunion" or "unfair" materials were not used; uniformly, the clauses merely requested the employers to make "every reasonable effort" to use materials that would not cause "discord or disturbance" on the job, as in this provision:

The contractors and their subcontractors performing work covered by the terms of this agreement on a project shall have freedom of choice in the purchase of materials, supplies, and equipment, save and except that every reasonable effort shall be made by these contractors and their subcontractors performing such work on the project to refrain from the use of materials, supplies, or equipment which use shall tend to cause any discord or disturbance on the project.

There was a scattering of various other restrictions in construction industry clauses. A few obligated the subcontractor to register with the union or the employers' association (a limitation also common in the apparel industry); others required that prevailing area wage rates be paid the subcontractor's workers; some directed the prime employer to protect the wages and other standards of the subcontractor's workers (also prevalent in the apparel industry); and one prohibited subcontracting if its purpose was evasion of the terms of the prime employer's labor contract.

In one construction agreement a subcontractor was prohibited from contracting out any part of his subcontract. Another clause provided that, with several exceptions concerning certain kinds of work, the prime employer could subcontract only to one subcontractor—a provision somewhat similar to apparel agreements which confine a prime employer to his registered subcontractors.

13 The Labor-Management Reporting and Disclosure Act of 1959 added the following subsection to section 8 of the National Labor Relations Act, as amended:

(e) It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person, and any contract or agreement entered into heretofore or hereafter containing such an agreement shall be to such extent unenforceable and void: Provided, That nothing in this subsection (e) shall apply to an agreement between a labor organization and an employer in the construction industry relating to the contracting or subcontracting of work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work: Provided further, That for the purposes of this subsection (e) and section 8(b)(4) (B) the terms "any employer," "any person engaged in commerce or an industry affecting commerce," and "any person" when used in relation to the terms "any other producer, processor, or manufacturer," "any other employer," or "any other person" shall not include persons in the relation of a jobber, manufacturer, contractor, or subcontractor working on the goods or premises of the jobber or manufacturer or performing parts of an integrated process of production in the apparel and clothing industry: Provided further, That nothing in this act shall prohibit the enforcement of any agreement which is within the foregoing exception.

Virtually all agreements used in this study were negotiated prior to the passage of the Labor-Management Reporting and Disclosure Act, September 1959.
Apparel. As in the construction industry, contracting out is well integrated into the normal operations of the apparel industries. The degree of contracting out in the latter industries ranges from certain specialized operations (e.g., making canvas coat fronts) to the entire manufacturing process. The regular (“inside”) shop normally performs all manufacturing operations, but it may use contractors during peak periods or for specialized operations. Other manufacturers could not operate without subcontractors. Contractors sell their services to the manufacturers and, through the process of industry-union control, are “attached” to one or more manufacturers or they may pick up work where they find it. The ramifications of the contracting-out system in apparel industries can not be adequately described through an analysis of collective bargaining agreements; this article, therefore, attempts to highlight those elements of contractual regulation which may have meaning to other industries.

Multiple unionism does not exist in any branch of the apparel industry where subcontracting is common; hence, aside from insuring that work will go to a union shop, the loss of employment opportunities for members of the union is no longer a significant factor in subcontracting regulations. However, the unions are concerned with preserving work for inside employees. Otherwise, the major restrictions found in apparel industry agreements were directed at protecting contract standards. These included registration of subcontractors, wage guarantees for the subcontractor’s employees, and “struck work” provisions.

A large number of apparel industry provisions required that inside employees be “fully supplied with work,” “fully employed,” or “fully and substantially employed” before the employer could subcontract. Other provisions prohibited subcontracting if it would cause layoff or if the inside workers were already on layoff. Exceptions from the “fully supplied” requirement, noted in a few agreements, were situations in which (a) the prime employer could prove that he was not at fault for any slack work period that subsequently developed while the subcontractor continued to be fully employed and (b) the subcontracted work differed from the kind being done in the plant.

To stabilize industry conditions, several multi-employer agreements provided that, during slow periods, the available work was to be shared between the employees of the contractor and those of the prime employer. Some protected “permanent” or “registered” subcontractors by requiring that they be fully supplied with work before the prime employer could contract out to additional contractors.

A member of the association who employs contractors exclusively working for him shall share work with the contractors during slow periods of employment. Should a member of the association employ contractors who are not exclusively working for him, the union and the association shall decide upon the percentage of work such contractors shall receive from the member of the association during the slow periods of employment.

No work shall be given by such [employer] to any other contractor than those so registered unless and until both the employees of the [employer’s] factory and those of the registered contractors are fully employed . . . .

In establishing the method by which work should be divided between inside and outside shops, two different plans were generally used: a “percentage” plan (alluded to in the second preceding clause) and one—more prevalent—based upon the number of machine operators employed in the inside and outside shops. Examples of the two methods are:

Where the employer maintains an inside shop and also gives work to be done in contracting shops, then and in that event, when slack sets in, the work to be sent to the contracting shop shall be the same percentage of the total work done as prevailed during the busy season, and such work shall be distributed substantially equally among the contractors permanently registered. The principle of equal division between the inside and outside shops shall not apply in those situations where the type of work regularly performed in inside shops differs substantially from the type of work regularly performed in outside shops.

A member of the association who maintains an inside shop and who deals with and gives work to contractors who employ workers in the crafts covered by this agreement shall, when there is insufficient work, distribute his work on the basis of the number of machine operators employed, equitably to and among his inside shop and to such permanent contractors designated by him as work exclusively for him, and to such other permanent contractors hereafter designated by him, with due regard to the ability of the contractors and the workers to produce and perform.

Besides these “full work” and “work sharing” provisions, there were a number of other restrictions scattered among the apparel contracts that
set conditions which management had to meet before it could subcontract. A few obligated the company to notify the union in advance of subcontracting, and others required union approval of contracting out. A number of agreements banned contracting out where the prime employer had available the necessary skills and equipment, while subcontracting was permitted in others if it represented savings to the company, if the company had no room for additional workers, or if there was an emergency or an unusual backlog of orders.

In an effort to protect contract standards, a small number of apparel provisions banned contracting out if its purpose was evasion of the terms of the prime employer's agreement. Several clauses insisted on compliance with the prime employer's labor agreement, but most barred subcontracting unless the subcontractor was “union” or maintained “a union shop,” or was “in contractual relations” with the same local union that was signatory to the prime employer’s agreement. Illustrative of the language often found in such provisions are the following:

No work shall be given by any [association] member to a contractor who is not in contractual relationship with the union.

* * *

A manufacturer who employs contractors shall employ only contractors who are in contractual relationship with the New York Joint Board of the Amalgamated Clothing Workers of America and shall not cause or permit any work to be performed for him, directly or indirectly, by any person, partnership, corporation, or contractor who is not in contractual relationship with the New York Joint Board.

Other clauses required the subcontractor to have an agreement with another local of the same international union, or with the same or another local of the same international union, depending upon the location of the plant or the kind of work to be let.

Two agreements, both outside the metropolitan area of New York City, recognized that situations could arise where no union contractors would be available. Under such circumstances, the use of nonunion subcontractors was allowed subject to very detailed limitations and procedures, as in the following provision:

In the event the employer is unable to obtain the services of a union contractor, he shall request the union to furnish one. If the union fails to furnish a union contractor satisfactory to the employer, the employer may employ any available contractor satisfactory to him, provided, however, that said employer shall not have the right to arbitrarily reject a proposed contractor as unsatisfactory without good cause.

When a union contractor satisfactory to the employer becomes available, no further work will be delivered to such nonunion contractor, it being understood that at no time is an employer obligated to remove any materials from a nonunion contractor during the process of production.

Upon notice from the union that a contractor is available under the provisions of this clause, a manufacturer shall have 3 weeks to remove all work from a nonunion contractor.

A basic control mechanism regulating the subcontracting system in the apparel industries is the registration of subcontractors with the union. By this device, unions in the industry maximize knowledge of and control over subcontractors and their operations. The same “blanketing in” that the construction industry achieves by contract compliance is provided here by the registration requirement. The following provision illustrates the form taken by registration clauses:

No work shall be sent to any contractor or submanufacturer unless such contractor or submanufacturer shall have been registered by the member of the association with the union.

In a similar vein, agreements were reached with two subcontractors’ associations requiring members to register their prime employers.

Negotiators of several agreements have used the registration clause to spell out the prime employer-subcontractor relationship, including the rights of subcontractors and their workers. One clause, for instance, specified the following aspects of the relationship:

1. The prime contractor must use his registered subcontractors to the exclusion of all others.

2. In return, the registered subcontractor will work exclusively for the prime contractor who designated him.

3. Work shall be shared between the inside shop and the registered subcontractor.

4. Forms registering subcontractors for the first time must give detailed information on their volume of production for the preceding year and on their capacity to produce.

5. If a registered subcontractor goes out of business, his workers shall be absorbed into the inside shop and into the shops of the prime employer's other registered contractors.

6. A prime employer may change or add subcontractors when modifications in his product justify it, subject to the approval of the industry's impartial chairman.
Many provisions required the prime employer to guarantee the wages (in full or in part) or all the contract terms for the subcontractor's employees. For example:

In all cases where the [employer] has work performed . . . outside his own shops . . . he hereby assumes full responsibility for the conditions of such outside shop and for the payments of wages of the workers employed by such outside shop, with the same force and effect as if that shop were owned directly by [him].

* * *

The members of the association hereby guarantee the payment of the wages of the employees of their respective union contractors and submanufacturers to the extent of the work performed . . . . If the contractor shall fail to pay . . . in full, the liability imposed by this provision shall not exceed 2 weeks' wages where employees are paid weekly and 3 weeks' wages where the employees are paid every 2 weeks.

Several other clauses required the prime employer to pay the subcontractor at least an amount sufficient to cover "contract" wages or obligated him to withhold sufficient money to cover wage payments:

The members of the association shall pay to the respective contractors an equitable price sufficient to pay the workers the piece rates and wages to which they are entitled under this contract.

* * *

In order to secure the wages of the workers in the shops of subcontractors, the employers are urged to ascertain the payroll of the contractors and make sure to withhold an amount sufficient to cover the payroll of the workers in the contracting shops.

Many apparel clauses limited management's right to subcontract in strike situations. Such provisions usually specified that the prime employer could not subcontract to a struck contractor and that his employees could not work on struck goods. Typically, this clause was phrased thus:

The respective members of the association shall not, directly or indirectly, have any work performed by, or purchase any of their products from, any other concern during the pendency of a strike declared against that other concern by the International Ladies' Garment Workers' Union or any of its locals.

Several additional clauses safeguarded workers from disciplinary action in the event they refused to work on struck goods, declaring such work to be not "in the regular course of employment."

Other provisions recognized that neutral employers might be hurt by a rigid application of the strike prohibition; these allowed goods in a struck plant to be finished or required substantial advance notice by the union before a strike in order to give the neutral employer an opportunity to make other arrangements.

Other Industries. Among the remaining agreements (other than in construction and apparel) where conditions were attached to subcontracting of part of the production process or major activity, both the preservation of employment opportunities and the protection of contract standards received approximately equal attention. Among the conditions which were to be met before subcontracting was permitted were restrictions concerning layoffs, notice to the union, and seniority status, along with a number of limitations related to skill and equipment needs and to production considerations. To protect contract standards, the more common limitations that were found required subcontractors to have a union contract and to pay prevailing area wages.

EMPLOYMENT EFFECTS

The largest number of limitations upon subcontracting were designed to minimize any adverse effects upon employment. A number of agreement provisions, scattered among food, chemicals, rubber, trucking, communications and utilities agreements, barred subcontracting if employees who could do the work were on layoff or working part time. Most, however, forbade contracting out if it would result in subsequent layoffs or part-time work. Such provisions were more frequent in communications and utilities agreements, but they were also found among food, petroleum refining, transportation equipment, and trucking contracts. Illustrating the latter type are the following examples from a utility and a telephone agreement, respectively:

It is recognized that the company has the right to have work done by outside contractors. However, work performed by employees covered by the agreement will not be contracted out if this will result in the layoff of employees who normally perform such work.

* * *

The company agrees that it will not contract work out to other parties which is not customarily contracted out in a manner that will currently and directly result in a layoff or part-time work for present employees.

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14 See footnote 13.
Several clauses prohibited subcontracting where its purpose was to “reduce available work” or to reduce the permanent work force:

It is also the intent of the parties that work presently being performed by employees covered by this agreement will not be contracted out in order to displace present employees.

In a number of others, subcontracting was to be terminated if, in addition to layoffs or part timing, it also led to demotions, transfers, reduction in wage rates or earnings, or evasion of wage payments.

The subcontracting provisions of a few agreements, all in the telephone industry, made specific reference to jurisdictional problems. Two such agreements were with independent unions, and two others with an AFL-CIO affiliate. Examples of each are presented, respectively:

As to situations not covered by [specified sections on subcontracting] of this article, the company agrees to resist any effort by other labor organizations through jurisdictional claims to take telephone work from its employees and further agrees to confer upon request with the union delegates with respect thereto.

Furthermore, in the event of a jurisdictional dispute between the union and any other labor organization as to the performance of work of the type presently and regularly done by the employees in the bargaining unit, the company will favor the performance of such work by the employees in the bargaining unit.

Frequently, agreements required management to notify the union either before or after work was to be given out. The effectiveness of such clauses depends on the status of the union in the establishment rather than on agreement language. The weaker of these clauses, requiring notice after work had already left the plant, was noted in a utility agreement:

The hiring of outside equipment shall not be done in such a manner as to interfere with or discriminate against the seniority status of the employer’s employees.

Considerations other than those directly involving the status of in-plant employees were reflected in subcontracting clauses. A number of provisions allowed management to contract out, providing the necessary skills and equipment, although available in the plant, were already engaged on other work. Several other agreements specified that the company could let out part of the work as long as certain specialized skills or equipment were needed and were not available in the plant. Fewer agreements stipulated that all equipment in the plant had to be in use before management could contract out. Clauses including this proviso were scattered among the food, electrical machinery, professional and scientific equipment, local transit, and motor freight industries.

Many provisions allowed subcontracting in emergencies, during peak periods, or to meet sudden spurts in demand. In some cases, subcontracting was explicitly recognized as a better solution than increasing the work force only to lay off new employees after a few days or weeks. Although these provisions were dispersed among a variety of industries, almost half were found concentrated in the trucking, transit, telephone, and electric and gas utilities industries, in which demand for services could not be postponed or

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15 See part I, p. 4, for illustrations.
met through accumulated inventories. Typical of the language concerned with “busy season” or “peak load” conditions is the following utilities clause:

The company will continue the policy of hiring contractors when . . . peaks of work would require a temporary increase of the company's forces with subsequent layoff of such additional forces.

Similar to the above clauses were those which turned on considerations of time. Subcontracting was allowed when work could not be accomplished “in the time required,” when work could not “be postponed,” or when “time of delivery” could not be met. For example, in an electric and gas utility clause:

It is the policy of the company not to employ outside contractors for any work ordinarily and customarily done by its regular employees, and the company agrees that no such . . . work will be let to outside contractors except [where] such jobs cannot be done in the time required for completion by regular employees because of volume of work . . .

The largest number of clauses referring to production criteria provided that subcontracting would be unrestricted in emergency situations, as illustrated in the following utilities and communications agreements:

Emergency . . . work caused by fire, flood, storm, or other major difficulty shall not be subject to the provisions of this [subcontracting] article.

Nothing in [this subcontracting clause] is to be interpreted as restricting the right of the company to contract out any work during an emergency.

(a) Emergency work includes the clearing of trouble and the accompanying repair of any plant located in the territory of a connecting company.

Seventeen agreements were concerned with the savings in cost that would result from subcontracting. Only when having the work done by in-plant employees would involve “unreasonable” costs, or would not be “competitive,” or “would exceed the cost” of subcontracting, or where it would not be “advantageous” or “economical to do so,” contracting out was permitted, as for instance in a transportation equipment agreement:

... the work shall be performed by employees with seniority in the bargaining unit; provided, however, that in the judgment of the corporation . . . (2) the cost of producing the item in the plant or performing the work with employees of the corporation is competitive with the bids submitted by an outside contractor.

In a similar vein, a few agreements lifted the limitations on subcontracting if confining the work to the plant would affect company operations or efficiency.

UNION STANDARDS

The approach used in the construction and apparel industries in protecting union standards was similar to that found in 37 agreements which required subcontractors to be under union contract either with the same local, or another local of the same international union, or with an AFL-CIO affiliate. Twenty-five clauses insisted upon compliance with the prime employer's labor agreement. A lesser number attacked the problem of the prime employer's deliberate evasion of his labor contract, or deliberate discrimination against employees or union members, by forbidding contracting out under such circumstances. A petroleum refinery agreement included this clause:

Nothing in this agreement shall limit the right of the company to contract out work except that such contracting out will not be done in order to evade any of the terms of this agreement.

Under the terms of several other agreements, subcontracting was to terminate if the employer used it to avoid paying the contract scale or overtime. A communications industry clause, for example, barred subcontracting if it was designed to avoid paying the premium for the sixth day of work.

A few provisions obligated the employer to see that a subcontractor provided prevailing area wages and working conditions or at least minimums equal to those in the prime employer's agreement. As in the construction industry, a number of agreements, largely in local and long distance hauling, provided for the subcontractor's employment of union labor or material.

Again following the example of the construction industry, the national Industrial Shows Basic Agreement, involving Actors' Equity Association, required that a guarantee of subcontractor compliance with the collective bargaining agreement be written into the subcontract:

(a) It is hereby understood and agreed that in the event the producer engages in the production of an Industrial Show with actors . . . not employed by the producer, but by an independent contractor, agent, or other employer, then the producer will, in its contract with such independent contractor, agent, or other employer, include the covenant set forth in paragraph (b) hereof . . .
(b) As an integral part of this contract, it is hereby agreed by (name of independent contractor to be inserted) that all actors shall be paid the wage scale and be accorded all the rights and conditions set forth in the Industrial Shows Basic Agreement in every respect as if the said (name of independent contractor to be inserted) were directly a party and signatory to said agreement.

Other provisions created a registration system, and a small number barred subcontracting where either the prime employer or the subcontractor was involved in a labor dispute.

A few agreements contained provisions to maintain subcontracting at a certain level or to cut it back, as in a transportation equipment provision:

It is the intent of this article to insure that the company shall continue as a manufacturing company; to insure that it shall conduct its affairs to reflect its purpose to continue virtually exclusively as a manufacturer of its own products . . . ; and to insure that the company shall reduce or maintain at a minimum the subcontracting or licensing of work which it can perform . . . .

Two utility agreements carried such curtailment to its logical next step by calling for its eventual termination:

The company will study the question of . . . work by outside contractors on its property and will plan with the local toward a discontinuance of such work by contractors over a period of time . . . .

A utility provision required the prime employer to meet with the union for discussion if at anytime his employees and those of the subcontractor used the same “company-owned manually operated equipment.” Finally, two transportation agreements gave management a free hand in subcontracting projects the duration of which would be 2 weeks or less, and a local transit agreement allowed management to subcontract only “one-time jobs.”

Enforcement of Subcontracting Provisions

Although the dispute settling machinery provided by most collective bargaining agreements would normally operate in cases of disputes over subcontracting clauses, a number of subcontracting provisions, particularly in the apparel industry, specifically authorized the parties to invoke the grievance procedure in such disputes. Some of the apparel agreements repeated in each clause of the subcontracting section of the agreement that the parties could refer disputes to the grievance procedure. Many of the agreements in this industry, particularly in New York City where the impartial umpire system is well established, permitted the full grievance procedure to be bypassed and the case taken up directly with the arbitrator. In the following clause, however, the arbitrator receives a dispute only after disagreement between the employers’ association and the union, and a time limit is set for his decision.

Should the union object to the employment of such contractor, no work shall be given by the member of the association to the contractor until the matter is adjusted between the representatives of the association and the representatives of the union. Upon their failure to agree, the matter shall be disposed of by an impartial arbitrator not later than 48 hours after the submission of the case to the arbitrator.

The following transportation equipment provision allowed the grievance procedure to be used if the union was not “satisfied” with management’s reason for subcontracting:

Where outside contractors are utilized, notification to that effect and the reason therefor will be furnished the union. If the union is not satisfied with the reasons given, the matter may be processed through the grievance procedure.

Penalties designed to aid enforcement of subcontracting clauses were found in a small number of agreements. These included financial damages (usually determined by an arbitrator), strike action, or in one case, injunctive relief. The largest number, again found predominantly among apparel clauses, required the payment of damages when a prime employer used a nonunion subcontractor or when he underpaid his own workers or his subcontractor (who, in turn, was forced to underpay his employees), as in a shirt and sportswear agreement:

Where it shall have been established that there has been an underpayment made by a member of the association to his contractor or submanufacturer or by him to the workers, the amount of such underpayment shall be paid by such member of the association to the parties so underpaid, and he shall, in addition to the foregoing, be subject to such additional liquidated damages as may be agreed upon between the association and the Joint Board or, upon their failure to agree, as may be determined by the impartial chairman . . . .

Another group, consisting largely of clauses in construction agreements, provided that violation of the subcontracting clause was sufficient cause for
"cancellation" or "termination" of the agreement. The following is the standard language found among clauses covering electricians in the construction industry:

Local Union . . . is a part of the International Brotherhood of Electrical Workers, and any violation or annulment of working rules or agreement of any other local union of the IBEW or the subletting, assigning, or the transfer of any work in connection with electrical work to any person, firm, or corporation not complying with the terms of this agreement by the employer, will be sufficient cause for cancellation of this agreement, after the facts have been determined by the international office of the union.

One agreement in the apparel industry sanctioned union exercise of an injunctive remedy, as follows:

The employer agrees that he will at no time buy cut goods for caps or hats to be manufactured on his premises nor shall he contract any work to any nonunion shop. Notwithstanding the provisions of paragraph 23, and in addition to the relief provided in said paragraph, a breach of this clause shall also entitle the union, in an action at law or in equity, to judgment for damages for wages lost by its members, employees of the employer, as well as to injunctive relief to restrain a further breach of this clause.

A number of provisions, mostly in the construction and utilities industries, permitted noncompliance with subcontracting provisions under certain circumstances. Commonly, the union waived enforcement if the employer, in fulfilling his obligations under the subcontracting clause, would violate State or Federal statutes. In a few additional situations, the clause could be bypassed if its compliance created economic hardships for the employer. The following provision from an electrical machinery agreement covered both situations:

When building or construction work of the type customarily performed by the building trades unions of the AFL-CIO is contracted out, preference shall be given to qualified contractors employing members of the trade unions affiliated with the AFL-CIO. Nothing herein shall require the company to violate Federal, State, or municipal regulations, to delay the work, to employ a contractor either not readily available or not equipped to do the work, or to bear unreasonable cost. If faced with such contingencies, the company shall immediately take the matter up with a proper representative of the local union.
Appendixes

In order to illustrate the several elements of policy relating to subcontracting, selected clauses illustrating a variety of situations are reproduced on the following pages. These should not be considered as model or typical provisions.
Appendix I. Subcontracting Construction and Other Services

From the agreement between
the Columbia-Southern Chemical Corp.,
and Allied Chemical and Alkali
Workers of America (Ind.)

ARTICLE V

Repairs and Construction

Section 1.

When a contract is let by the company for any repairs or construction work, the company will attempt fairly to employ directly, or, if practical, through any contractor as many idle employees as possible, provided they are qualified for the work available in making repairs to buildings, tanks, and equipment, or in building new structures, and at rates in no cases less than the minimum plant rate for the type of work performed. The company will notify the union as soon as possible of contracts let for construction or repair work, giving the name of the contractor, nature of the work, approximate number of man hours, and reason therefor. The company will make a sincere effort to notify the union prior to contracting the work.

Section 2.

This clause is not intended to restrict the company in its right to let contracts for new construction or large repair jobs when it feels it necessary or expedient to do so, such as not having the necessary equipment or supervision for such operations. It also applies to the employment of skilled artisans from outside its regular plant organization when it is necessary to do so.

Section 3.

With respect to skilled trades within the plant, it is understood that if a contractor's employees work overtime, then, at least an equivalent number of available plant employees of the same skill will be permitted to work overtime on the same day, except when special circumstances exist, such as:

(1) Industry practice as regards to Brick Masons provides that overtime must be worked. Example: Silicate furnace tank repair—contractor personnel cannot be obtained unless they work 10 hours a day.

(2) Where the job must be worked on a continuous basis. Example: Where welding and annealing pipe lines is involved and must be continued until job completion.
From the agreement between
the Dunlop Tire and Rubber Corp.,
and the United Rubber, Cork,
Linoleum and Plastic Workers
of America (AFL-CIO)

ARTICLE VIII

General Rules

Section 8.09—Outside Contractors.

While in general it is the policy and intent of the company to have that work performed by its maintenance employees which they are able to handle, it is recognized by both parties that at various times the company may be required to allot to outside contractors work of similar or identical nature as that performed by company maintenance employees. Such allotment of contracts shall be governed by the following:

(a) That the work project is of such size or nature as to make it impractical to be handled by the above mentioned employees in conjunction with their regular work assignments or

(b) That the work is of such urgency or short duration as to make it impractical to add additional men to the regular maintenance force.
From the agreement between
The Electric Storage Battery Co.,
and the International Union, United
Automobile, Aircraft and Agricultural
Implement Workers of America (AFL-CIO)

ARTICLE XI

Subcontracting Work

Statement of company's position relative to letting maintenance contracts to outside contractors. Maintenance shall include janitors, yard men and sweepers.

The company intends to utilize our own personnel and equipment wherever it is feasible. It is anticipated that it will be feasible and advantageous in the great majority of instances. However, it must be recognized by everyone that there are some jobs which should be let to outside contractors because they may possess specialized equipment which we do not have, or which is already being utilized, or where peculiar skills are involved, or in cases where the time limits of the job are such that it cannot be completed efficiently within the required time or where the facilities of the company do not have the capacity for the project.

It is also the intention of the company to inform union representatives of the reasons why such contracts are being let to outside contractors. Consideration will be given to facts and arguments presented by union representatives and they will be weighed in making the final decision. A procedure will be established internal to the company organization which should give reasonable assurance that this will be done.

The final decision as to whether the work will be done by our personnel or by outside contractors is one which properly is inherent in the company function and this should be recognized by all concerned.
Appendix II. Subcontracting Production Processes or the Major Activity

A. Construction Industry

From the agreement between
The Associated General Contractors of America, Southern California Chapter
and the United Brotherhood of Carpenters and Joiners of America (AFL-CIO)

ARTICLE I

Coverage

B. All work performed in the Contractors' warehouses, shops or yards which have been particularly provided or set up to handle work in connection with a job or project covered by the terms of this agreement, and all of the production or fabrication of materials by the Contractor, or subcontractor, for use on the project shall be subject to the terms and conditions of this agreement.

C. All work performed by the Contractors, and all services rendered for the Contractors, as herein defined, shall be rendered in accordance with each and all of the terms and provisions hereof.

D. If the Contractors, parties hereto, shall subcontract job-site work covered under the jurisdiction of the United Brotherhood of Carpenters and Joiners of America, covered by this agreement, including the furnishing or installation of materials, performance of labor, and the operation of equipment, provision shall be made in writing for the observance by these subcontractors with the full terms of this agreement. The Contractors agree to be held liable for the compliance by these subcontractors with this agreement.

A subcontractor shall be defined as a person, firm or corporation, party to this agreement, who employs available workmen to perform, as employees, services covered by the terms and provisions of this agreement.

E. The Contractors and their subcontractors shall have freedom of choice in the purchase of materials, except that every reasonable effort shall be made by Contractors and their subcontractors to refrain from the use of materials, which use will tend to cause any discord or disturbance on the project. Employees shall not be required to handle nonunion material.

F. Repairs necessitated by defects of material or workmanship or adjustments of newly purchased and/or installed equipment or machinery will not be subject to this agreement when such repairs and/or adjustments are made by the manufacturer thereof or his agents or employees pursuant to the terms of a manufacturer's guarantee and the union will not hamper such manufacturer or his agents or employees on such exempted work.
From the agreement between
the Mason Contractors' Association, Inc.,
and the Metropolitan Executive Committee
of Bricklayers (AFL-CIO)

ARTICLE IX

Subcontracting

Section 1.

A subcontractor is defined as any person, firm or corporation, which agrees orally or in writing to perform for or on behalf of an employer any part or portion of the work covered in this agreement.

Section 2.

The Joint Arbitration Board shall compile and publish a list of responsible subcontractors. The Board shall revise the list periodically and may add to, or delete from, the list in its discretion in accordance with uniform rules and standards established by the Board.

Section 3.

In the event an employer elects to subcontract any work covered by this agreement to a subcontractor who does not appear on the list published by the Joint Arbitration Board such employer shall:

(a) Provide in the subcontract for compliance by the subcontractor with the terms and conditions of this agreement;

(b) Remain responsible at all times for full compliance with the agreement by such subcontractor.

ARTICLE XIII

Contracting

Section 3.

No member of the unions of the metropolitan area shall be allowed to subcontract work of any character, covered by our classification of work, or work for any person contracting work by the thousands, or lump work of any character taken from general contractors without furnishing materials.
B. Apparel Industry

From the agreement between
The Clothing Manufacturers Association
of the United States of America, and the
Amalgamated Clothing Workers of America (AFL-CIO)

ARTICLE XIV

Other Factories and Contractors

(a) During the term of this agreement the employer agrees that he shall not, without
the consent of the union, remove or cause to be removed his present plant or plants
from the city or cities in which such plant or plants are located.

(b) During the term of this agreement the employer may with the consent of the union
manufacture garments or cause them to be manufactured in a factory other than
his present factory or factories provided his factory or factories have and continue
to have full employment and provided further that such other factory or factories
are under contract with the union.

(c) The employer further agrees that he shall send work only to such union contractors
designated by agreement of the parties herein. The employer employing contractors
agrees simultaneously with the execution of this agreement to execute a contractor
registration statement, the terms and conditions of which shall be specifically in-
corporated herein by reference.
From the agreement between
The Industrial Council of Cloak, Suit
and Skirt Manufacturers, Inc., and the
International Ladies' Garment Workers' Union (AFL-CIO)

FIFTH: The Council agrees that all of its members who produce all or part of their garments on their own premises will maintain union shops, and that all of its members who have their garments produced by contractors or submanufacturers or who purchase their garments from other manufacturers, merchants, jobbers or wholesalers, will deal only with such firms as conduct union shops. No member of the Council, however, shall purchase any garments whatsoever covered by this agreement, unless his inside shop, if he maintains one, and the shops of the regularly designated contractors and submanufacturers are fully supplied with work, and no such purchase shall be made unless the same is bona fide and genuine or if the purpose of such purchase is to avoid any of the obligations herein provided for to the workers of the inside shop of the member of the Council and of his regularly designated contractors and submanufacturers.

The union shall have the right to have its representative visit the shops of the members of the Council at all times, for the purpose of examining the union standing of the workers, which examination shall not involve the loss of work-time. All such examinations shall be had on notice to the Council which shall, in each instance, designate a representative to accompany the union representative on such examination.

No member of the Council shall, directly or indirectly, manufacture or cause any garments to be manufactured or purchase any garments from any person, firm or corporation against whom the International or the union has declared or sanctioned a strike until such strike in each case has been fully settled.

No worker shall be required to perform any work for any employer whether a member or nonmember of the Council during the pendency of a strike declared or sanctioned against such employer by the International or by the union. Performance of such work shall not be deemed in the regular course of the worker's employment and refusal to perform such work shall not be deemed a breach of this agreement.

SIXTH: (a) The parties hereto agree that the union has a bona fide interest in the labor conditions existing in all shops manufacturing ladies', misses', children's and infants' cloaks, coats, suits, skirts and all special types and kinds of such garments, and that a close unity of interest exists among the members of the International engaged in the work of manufacturing such garments regardless of the respective shops in which they are employed.

(b) The parties hereto acknowledge that under prevailing practices in the coat and suit industry, manufacturers, jobbers, merchants or wholesalers cause garments to be manufactured or work to be performed for them or otherwise deal (usually by the "sale" of cut or uncut materials and the "repurchase" of completed garments manufactured from such materials) by or with other individuals, firms or corporations commonly referred to as "contractors" and/or "submanufacturers." In all cases, these manufacturers, jobbers, merchants or wholesalers provide the designs, specifications, materials and other items pursuant to which their garments are manufactured by their contractors and submanufacturers. The parties hereto acknowledge that each member of the Council and his contractors and submanufacturers who manufacture garments or perform work for him or with whom he otherwise deals are closely allied and have a close unity of interest with each other in the manufacture of such garments, and that, in any labor dispute, to the extent of any work performed on such garments, a member of the Council and his contractors and submanufacturers are not "neutrals" with respect to each other but are jointly engaged in an integrated production effort.
Nothing contained in this number Paragraph "SIXTH (b)" shall be deemed to create or enlarge any existing obligation to the workers employed in shop of any contractor or submanufacturer. Nor shall it be interpreted as making any member of the Council responsible for any of the acts of his contractors or submanufacturers, except to the extent expressly imposed by other paragraphs of this agreement.

SEVENTH: (a) Every member of the Council who employs or deals with contractors or submanufacturers shall confine his production to his inside shop and to the contractors or submanufacturers heretofore designated by him the workers thereof. He shall distribute his work equitably to and among his inside shop and his contractors or submanufacturers, with due regard to the ability of the contractors, submanufacturers and the workers to produce and perform. Any firm which becomes a member of the Council after the date of the signing of this agreement, shall designate its contractors and submanufacturers, if it employs or deals with them, on the following basis: (1) The volume of such firm's production for the preceding year; (2) the capacity of the designated contractors or submanufacturers to produce. If such firm has not theretofore been in business, it shall designate the number of contractors, if any, which it will actually require.

(b) Should a contractor or submanufacturer designated by a member of the Council abandon his designation or cease to operate his business, through collusion, or by arrangement with such member, or should the designation of such contractor or submanufacturer be cancelled or annulled by the Impartial Chairman, the workers of such contractor or submanufacturer shall immediately be absorbed either by the inside shop of the member, if he maintains one, or by the remaining designated contractors or submanufacturers of such member. In any other case where a contractor or submanufacturer of such member abandons his designation or ceases to operate his business, the Impartial Chairman shall make such determination with respect to the workers of the contractor or submanufacturer as the merits of each particular case warrants, and, if absorption shall be directed, the same shall not be beyond the existing facilities of the inside shop of the member of the Council, if he maintains one, and of his regularly designated contractors and submanufacturers.

(c) No member of the Council shall designate contractors or submanufacturers unless he operates a union shop as herein defined and can fully supply his inside shop with work.

(d) No member of the Council shall employ cutters or maintain any cutting facilities whatsoever on his premises, or send out cut goods to contractors, unless he operates an inside shop.

(e) If the member making such designation shall, at any time, change the character of his product and the contractors or submanufacturers designated by him or any of them shall be incapable of meeting his changed requirements, he shall have the right to substitute and/or add such other contractors or submanufacturers in place of those incapable of meeting his changed requirements. Such substitution and/or addition shall not be made until after the decision of the Impartial Chairman on notice and hearing within 48 hours.
(f) A contractor or submanufacturer shall work exclusively for the member of the Council so designating him, unless otherwise approved by the Council, the American Cloak and Suit Manufacturers' Association, Inc., and the Union, or the Impartial Chairman. A contractor or submanufacturer thus designated shall not distribute or sell directly or indirectly any merchandise to any other manufacturer, merchant, jobber, wholesaler, retailer or consumer.

(g) A member of the Council whose garments are made by contractors or submanufacturers shall pay to such contractors or submanufacturers at least an amount sufficient to enable the contractor or submanufacturer to pay to the workers the wages and earnings provided for in this agreement, and, in addition, a reasonable payment to the contractor or submanufacturer to cover his overhead.

(h) Where it shall be established that there has been an underpayment made by a member of the Council to the contractor or submanufacturer or the workers, the amount of such underpayment shall be paid by such member of the Council to the parties so underpaid and he shall, in addition to the foregoing, be subject to such additional liquidated damages as may be agreed upon between the Council and the union, or, upon their failure to agree, as may be determined by the Impartial Chairman.

(i) Each member of the Council shall be responsible to the workers in each of the crafts covered by this agreement for the payment of their wages for work done by them on garments of such Council member made by contractors or submanufacturers, provided that such liability shall be limited to wages for 10 full working days in every instance. However, if the member of the Council fails to make payment to the contractor or submanufacturer on or before Tuesday following the week in which the work was performed, the liability of the member of the Council hereunder shall be deemed extended beyond the 10 working days and shall continue for 1 day for each additional day for which such workers have not been paid their wages by reason of the nonpayment thereof by the member of the Council to his contractors or submanufacturers. Notice of default by the contractor or submanufacturer in payment of wages due the workers shall be given by the union to such Council member within 10 days after the first default.

NINTH: The Council, on its own motion, will investigate any or all of the books and records of its members to ascertain whether they are giving work to or dealing with nonunion or nondesignated shops. Upon complaint filed by the union, the privilege will also be accorded a representative of the union to accompany a representative of the Council to examine the books and records of the member against whom a complaint has been filed, for the purpose only of determining whether such member is giving work to nonunion or nondesignated shops. Such examination shall be undertaken within 48 hours from the receipt of the request, and shall be conducted under such conditions and limitations as may be prescribed by the Impartial Chairman hereinafter designated.

Upon the request of the union, the Impartial Chairman or his accountants shall examine the books of any designated Council member for the purpose of ascertaining whether the provisions of this agreement are fully complied with. The Impartial Chairman, upon his own motion, may make the aforementioned investigation.

A uniform set of books and records relating to payrolls, labor cost and outside production shall be adopted by all members of the Council and by the entire industry. The form of such records and books shall be prescribed by the Impartial Chairman. Such records and books shall be open to the examination of the Impartial Chairman or his accountants at all reasonable times.
From the agreement between
The Industrial Council of Cloak, Suit
and Skirt Manufacturers, Inc., and the
International Ladies' Garment Workers'
Union (AFL-CIO)—Continued

TENTH: For the purpose of carrying the provisions of the above article into effect, the
union shall immediately submit to the Council a list of all union shops which are
operating under contracts with it and shall at least once in every week notify
the Council of all changes in and additions to the list.

No member of the Council shall employ and/or designate, or continue the employ
and/or designation of, a contractor or submanufacturer whose name is not in­
cluded in the latest corrected list of "union shops" furnished by the union, and
shall not order or purchase garments or otherwise deal or continue dealing
with a manufacturer, merchant, jobber or wholesaler whose name is not included
in such list. Any order or purchase of garments or other dealings, as aforesaid,
shall be subject, however, to the further restrictions contained in Paragraph:
"FIFTH" hereof.

Whenever it shall appear that a member of the Council gives work to or deals
with a nonunion shop and/or a nondesignated contractor or submanufacturer,
the Council shall immediately direct him to withdraw his work from such non­
union shop and/or nondesignated contractor or submanufacturer and to discontinue
dealing with it, whether such work be in process of operation or otherwise.

Should a member of the Council be found giving work to or dealing with a non­
designated contractor or submanufacturer, the Council and the union shall agree
upon the amount of damages which the member of the Council shall pay for a
first offense, which sum shall be sufficiently high

(a) to offset any advantage gained by the member through such transaction,
giving due regard to the amount involved;

(b) to pay the costs of any investigations made in connection therewith.

In the event of the inability of the Council and the union to agree upon the
amount of damages, the same shall be determined by the Impartial Chairman.

Should a member of the Council be found giving work to or dealing with a non­
union contractor or submanufacturer, or for the second or any subsequent time
be found giving work to or dealing with a nondesignated contractor or submanu­
facturer, the Council and the union shall agree upon the amount of damages
which the member of the Council shall pay, which sum shall be sufficiently high

(a) to offset any advantage gained by the member through such transaction,
giving due regard to the amount involved, and upon which any amount
paid under "(c)" hereof shall be credited on account;

(b) to pay the costs of any investigations made in connection therewith;

(c) to remunerate the workers of the inside shop of the member of the Coun­
cil, if he maintains one, and the workers of his regularly designated
contractors or submanufacturers who have sustained damages by reason
of the above violations.

In the event of the inability of the Council and the union to agree upon the
amount of damages, or whether any damages have been sustained by the work­
ers, the same shall be determined by the Impartial Chairman.

In such cases where a member of the Council is found giving work to or dealing
with a nonunion contractor or submanufacturer, he shall pay the full amount
of wages lost by the workers by reason of such violation.

Claims for damages to remunerate workers which the union may have against
any member of the Council who gives work to or deals with nondesignated con­
tractors or submanufacturers shall be filed with the Council any time within
6 months after such dealings, unless the same shall have been concealed, in
which event no such limitation shall apply.
In addition to being required to pay the amounts herein specified, a member, who shall be twice found to have given work to or dealt with either a nonunion or nondesignated contractor or submanufacturer during the term of this agreement, may be expelled by the Council. Such a member shall likewise automatically lose all rights and privileges under this agreement to the extent of giving the union the right to take such action as it may deem necessary, including the right to strike against such member, to enforce observance of this Paragraph number "TENTH."

The Council may adopt such other measures as in its judgment are necessary and expedient to prevent its members from giving work to nonunion or non-designated contractors or submanufacturers.

Recognizing the difficulty of ascertainment of the amounts properly payable under subdivisions "(a)" and "(b)" of this Paragraph numbered "TENTH", the sums determined to be payable hereunder shall for all purposes be deemed liquidated damages.

All amounts paid shall be turned over to the Impartial Chairman towards defraying the expenses of his office, except such amounts as are assessed and collected to remunerate the workers who have sustained damages which sums shall be turned over to the union and such amounts as are assessed and collected in favor of the Retirement Fund and for the Health and Welfare Fund, which sums shall be turned over to the respective Fund.

The Council in no event shall be deemed the guarantor or surety of a defaulting member, and the failure of any individual member or members to pay the amounts herein assessed shall not be deemed a breach of this agreement by the Council or any of its nondefaulting members.

TWENTY-SEVENTH: No work shall be given to workers to be made at home and all homework of any kind is expressly prohibited.

TWENTY-EIGHTH: No contracting or subcontracting within the shop shall be permitted.

THIRTY-SIXTH: The members of the American Cloak and Suit Manufacturers' Association, Inc., are recognized in this industry to be the efficient and standard shops capable of assisting and stabilizing the industry and eliminating the so-called sweat shop evil. Accordingly, the parties hereto agree that members of the Council will confine the manufacture of merchandise made for them in contracting or submanufacturing shops to members of the American Association exclusively. And the members of the American Association undertake to give preference to members of the Merchants Ladies' Garment Association, Inc., members of the Industrial Council of Cloak, Suit and Skirt Manufacturers, Inc., and members of the Infants' and Children's Coat Association, Inc.

The above obligation is assumed by the Council upon the understanding that the American Association is an organization of contractors and submanufacturers as defined in this agreement. It shall not be binding upon the said Council if the membership of the American Association shall contain inside manufacturers producing garments for the market on their own account substantially in the same manner as members of the Council.

THIRTY-EIGHTH: Each member of the Council shall file weekly with the Impartial Chairman a correct copy of the orders for garments placed with his contractors, and/or submanufacturers, and the labor price settled on such garments. The same shall be available to the union and all parties under collective agreement with it.
C. Other Industries

From the agreement between
The Willys Motors, Inc., and the
International Union, United Automobile,
Aircraft and Agricultural Implement
Workers of America (AFL-CIO)

Outside Work

Par. 112 (a) The company desires to provide steady employment for as many employees as practicable in their Toledo plant. To accomplish that end, it will continue to keep all the work it is now doing in the Toledo plant and before a contract is signed to take any of the work out of the plant that is now being done in the plant, the company will submit to the Executive Shop Committee, in writing, the data covering the reasons for this action.

(b) After the Committee has analyzed this information and everything being equal, they will either meet these prices or report their decision to a meeting of the employees and after securing the employees' approval, the company will have the prerogative to contract for the work to be performed outside of the plant.

(c) If the basis of moving such work is equipment and not the cost of running the operation, the company will make every effort to secure the machinery and keep the work in the plant. Failing to secure such needed equipment, whenever the company becomes in a financial condition to do so, the same issue may be again brought up for negotiations, and it will attempt to bring in work that is now being done on the outside whenever this is practicable at a comparable or lesser cost, it being understood that the cost of additional machinery must be amortized by the savings effected in the manufacture of a reasonable number of the Units that we can expect to manufacture.

(d) It is also understood that when a patented article that cannot be made in the company's plant is found to effect savings or be more desirable in advancing the sale of the product than the article manufactured in the Company's plant, the patented article will be procured after complying with the first two sections of this paragraph.
Appendix III. Subcontracting Both Production Processes or the Major Activity and Construction and Other Services

From the agreement between
The Sinclair Refining Co.,
and the Oil, Chemical and Atomic
Workers International Union (AFL-CIO)

ARTICLE XXIV

Contract Work

1. On pipe lines, in production and in gasoline plants, it is agreed that any classified work customarily performed by employees of the employer, for the performance of which equipment and present or laid-off employees are available, shall not be contracted out. Whenever new production is being developed, roustabout and well-pulling work shall be performed by employees of the employer.

2. In refineries, it is agreed that any classified work customarily performed by employees of the employer shall not be contracted out as long as the employer has the necessary equipment and so long as there are qualified employees available from among present or laid-off employees. This, however, shall not apply to major construction jobs or to the installation or construction of special or patented equipment not ordinarily installed by the employer. The employer in such cases will advise contractors when qualified employees are available for work on these special installations.

3. Employees granted leaves of absence to work for a contractor performing services for the employer shall retain their seniority on the same basis as though they had continued to work for the employer.
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<td>Paid Vacation Provisions in Major Union Contracts, 1957.</td>
<td>30 cents</td>
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<tr>
<td>1216</td>
<td>Collective Bargaining Clauses: Dismissal Pay. August 1957.</td>
<td>25 cents</td>
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<tr>
<td>1209</td>
<td>Analysis of Layoff, Recall, and Work-Sharing Procedures in Union Contracts. March 1957.</td>
<td>30 cents</td>
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**Employee-Benefit Plans**

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<tr>
<td>1296</td>
<td>Health and Insurance Life Insurance and Accidental Death and Dismemberment Benefits, Early Summer 1960.</td>
<td>25 cents</td>
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<tr>
<td>1293</td>
<td>Health and Insurance Plans Under Collective Bargaining: Major Medical Expense Benefits, Fall 1960.</td>
<td>20 cents</td>
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<td>1284</td>
<td>Pension Plans Under Collective Bargaining: Normal Retirement, and Early and Disability Retirement, Fall 1959.</td>
<td>40 cents</td>
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<td>1280</td>
<td>Health and Insurance Plans Under Collective Bargaining: Surgical and Medical Benefits, Late Summer 1959.</td>
<td>30 cents</td>
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<td>1274</td>
<td>Health and Insurance Plans Under Collective Bargaining: Hospital Benefits, Early 1959.</td>
<td>30 cents</td>
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<td>1250</td>
<td>Health and Insurance Plans Under Collective Bargaining: Accident and Sickness Benefits, Fall 1958.</td>
<td>25 cents</td>
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<td>1236</td>
<td>Digest of One Hundred Selected Health and Insurance Plans Under Collective Bargaining, Early 1958.</td>
<td>$1.25</td>
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<td>1232</td>
<td>Digest of One Hundred Selected Pension Plans Under Collective Bargaining, Winter 1957-58.</td>
<td>45 cents</td>
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**Union Activities**

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<tr>
<td>1267</td>
<td>Directory of National and International Labor Unions in the United States, 1959.</td>
<td>45 cents</td>
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**Work Stoppages**

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<td>1278</td>
<td>Analysis of Work Stoppages, 1959.</td>
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**General**

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<tr>
<td>1225</td>
<td>A Guide to Labor-Management Relations in the United States. April 1958.</td>
<td>$2.00</td>
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<tr>
<td>1225-1</td>
<td>Supplement No. 1. November 1958.</td>
<td>45 cents</td>
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<tr>
<td>1225-2</td>
<td>Supplement No. 2. July 1959. (Punched for standard binders.)</td>
<td>45 cents</td>
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