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COLLECTIVE BARGAINING

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MAJOR COLLECTIVE BARGAINING AGREEMENTS

ARBITRATION PROCEDURES

Bulletin No. 1425-6

UNITED STATES DEPARTMENT OF LABOR
W. Willard Wirtz, Secretary

BUREAU OF LABOR STATISTICS
Arthur M. Ross, Commissioner

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Preface

This bulletin is the sixth in the Bureau of Labor Statistics series of studies surveying the entire scope of the collective bargaining agreement. Previous reports are listed on the last page.

Agreement provisions establishing three types of voluntary arbitration of labor-management disputes are analyzed in this bulletin. The arbitration of grievance disputes, by far the most predominant type, is afforded the greatest amount of attention, and in this respect this bulletin can be considered as a continuation of a previous one dealing with grievance procedures. Separate chapters are devoted to the arbitration of disputes over new contract terms, including disputes arising out of agreement reopenings, and the arbitration of jurisdictional disputes.

The study is based on virtually all agreements in the United States covering 1,000 workers or more, exclusive of railroad, airline, and government agreements. These agreements accounted for almost half of the estimated coverage of all agreements outside of the excluded industries. The study thus does not reflect practices in small collective bargaining situations. All agreements are part of the file of current agreements maintained by the Bureau for public and government use, in accordance with section 211 of the Labor Management Relations Act, 1947.

The clauses quoted in this report, identified in an appendix, are not intended as model or recommended clauses. The classification and interpretation of clauses, it must be emphasized, reflect the understanding of outsiders, not necessarily that of the parties who negotiated them.

The Bulletin 1425 series is part of the program of the Bureau's Division of Industrial and Labor Relations, Joseph W. Bloch, Chief. This bulletin was prepared by Rose T. Selby under the supervision of Harry P. Cohany.

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Major Collective Bargaining Agreements—

Arbitration Procedures

Chapter I. Introduction

All but a small proportion of major agreements providing for a grievance procedure, also provide for final and binding arbitration of grievance disputes. This widespread reliance upon voluntary arbitration to resolve grievance disputes, characteristic of the American system of collective bargaining, is unparalleled among other industrialized countries. Thousands of disputes are arbitrated in the United States each year under these procedures, and even in companies in which no disputes reach the stage of arbitration the availability of the procedure undoubtedly exercises a stabilizing influence.

In contrast, all but a small proportion of major agreements avoid any prior commitment to arbitrate disputes arising out of the negotiation of new contracts or out of contract reopening provisions. The instances in which such arbitration is invoked, or even mutually agreed to on an ad hoc basis, are still more uncommon in any year. The arbitration of jurisdictional disputes, the third type of arbitration discussed in this report, is confined almost entirely to the construction industry.[1]

These three types of arbitration differ greatly in major and minor respects—the authority of the arbitrator, the scope of actual and possible cases, their meaning in terms of the basic prerogatives of management and union, the range of problems set before the arbitrator, the influence of arbitrators upon labor-management relations, procedural matters, etc. The workings of arbitration can profitably be studied from several different angles; this study concentrates on the ways in which collective bargaining agreements define and limit arbitration and the rules under which arbitration proceeds.

The bulk of this report deals with grievance arbitration (chs. 2-7). Since grievance arbitration is the final stage in the settlement of grievance disputes, this analysis is essentially a continuation of a previous study of grievance procedures.[2] The scope of grievance procedures, as determined in the prior study, is referred to in several places in this report to explain the scope of grievance arbitration and its restrictions.

By also including in this study the nature of no-strike, no-lockout pledges in agreements it became possible to indicate, for each agreement studied, whether a strike or lockout during the term of the agreement was possible without violating the letter of the agreement. The need for such an analysis became evident when a refinement in the Bureau of Labor Statistics work stoppage questionnaire

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1 The arbitration of jurisdictional disputes between unions at the Federation level (AFL–CIO and its Industrial Union Department) is not covered in this study since such arbitration is not required under the terms of existing collective bargaining agreements.

How union constitutions deal with the matter of arbitrating labor-management disputes is discussed in app. A of this bulletin.

2 Major Collective Bargaining Agreements: Grievance Procedures (BLS Bulletin 1425-1, 1964).

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revealed that a substantial proportion of work stoppages occur during the term of agreements and do not involve the negotiation of new contract terms.[3] In 1964, for example, 1,319 stoppages, or 36 percent of all stoppages, were of this character. These stoppages involved a total of 462,000 workers and resulted in 2,280,000 man-days of idleness, or about 10 percent of the total loss in man-days. The Bureau counts only stoppages lasting for a full day or shift or longer; if stoppages of shorter duration were included, the volume and proportion of stoppages arising during the term of agreements would undoubtedly be substantially higher. An analysis of contract limitations on the scope of the dispute—settling machinery and of no-strike, no-lockout pledges suggests that the source of the seemingly high prevalence of stoppages arising during the term of agreements may lie in the agreement itself.[4] Whether or not it is detrimental to sound labor-management relations to withhold certain types of disputes from arbitration, or to restrict the authority of the arbitrator, or even to avoid arbitration entirely, is a different subject, not here considered.

Arbitration and the Courts

Decisions of the U.S. Supreme Court since 1957, upholding enforcement of arbitration clauses in collective bargaining agreements, and limiting the scope of the Federal courts in their review of arbitration cases, may have a significant effect on the scope of arbitration and arbitration procedure.[5]

In the first case—Lincoln Mills,[6] in 1957—the Court held that section 301(a) of the Labor Management Relations Act (LMRA) empowers the Federal courts to compel specific performance of arbitration clauses in collective bargaining agreements, and that the Federal courts should direct arbitration where, generally speaking, it found both a no-strike clause and an arbitration clause in an agreement. The Court further stated that "the agreement to arbitrate grievance disputes was considered as quid pro quo of a no-strike agreement . . . ," and that the legislation "expresses a Federal policy that Federal courts should enforce these agreements on behalf of or against labor organizations and that industrial peace can best be obtained in that way . . . We conclude that the substantive law to apply in suits under section 301(a) is a Federal law which the courts must fashion from the policy of our national labor laws."

Following the Lincoln ruling, several cases involving questions of arbitrability and merit of the award were appealed to the U.S. Supreme Court, resulting in three decisions handed down in 1960 (Steelworkers—American Manufacturing Co., Enterprise Wheel and Car Corp., and Warrior and Gulf Navigation Co.), commonly called the "trilogy." These decisions held that: (1) The courts could not consider the merits of a grievance, but only whether it is covered by the contract; (2) an arbitrator's award which was within the scope of the contract must be enforced, whether or not the courts agree with his interpretation; and

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[3] See Analysis of Work Stoppages for the years 1961-64 (BLS Bulletins 1339, 1381, 1420, and 1460).

[4] "Wildcat" or "outlaw" strikes in defiance of agreement terms do occur and are included in the Bureau's work stoppage data (the Bureau has no way of identifying these). To the extent that such stoppages occur because the agreement provides no mechanism for dealing with workers' complaints or grievances, or a restrictive procedure, a study of agreement language would be pertinent.

[5] See, for example, Fourteenth Annual Report, Fiscal Year 1961, Federal Mediation and Conciliation Service, p. 40, and "The Supreme Court and Labor Dispute Arbitration: The Emerging Federal Law," by Russell A. Smith and Dallas L. Jones, in Michigan Law Review, March 1965, pp. 751-808.

[6] Textile Workers v. Lincoln Mills, 353 U.S. 448, 1957. For a summary of this decision, see Monthly Labor Review, August 1957, pp. 976-977.

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(3) the courts may refuse to compel arbitration only if the contract explicitly exempts the issue. Excerpts of brief summaries from the three cases, published in the Monthly Labor Review, August 1960, follow:

Case No. 1. The U. S. Supreme Court held[1] that in a suit to compel arbitration in a case where the parties had agreed to submit all questions of contract interpretation to an arbitrator, the Federal courts were limited to determining whether the dispute in issue was governed by the contract and that they had no power to evaluate the merits of the dispute. . . . The Court held that the purpose of the grievance and arbitration procedure was to provide an environment wherein all grievances, both serious and frivolous, could be aired and possibly settled, since "the processing of even frivolous claims may have therapeutic values /of/ which those who are not part of the plant environment may be quite unaware."

A concurring opinion pointed out that the entire purpose of an arbitration clause is to substitute the informed judgement of an arbitrator for that of a court. Therefore, when a court is asked to enforce an arbitration clause it should ordinarily refrain from involving itself in the interpretation of the substantive provisions of the contract.

Case No. 2. The U. S. Supreme Court held[2] that insofar as an arbitrator's award was within the limits determined by the contract, a court could not refuse enforcement of the award merely because his interpretation of the collective bargaining contract differed from that of the court.

In this case, a group of employees left their jobs in protest against the discharge of a fellow worker. When the employer refused to reinstate the employees or arbitrate the matter, the union sought enforcement of the arbitration provision of the contract in the district court. The contract provided that any unresolved differences "as to the meaning and application" of their contract should be submitted to an arbitrator. The contract also provided that if the arbitrator decided that an employee had been suspended or discharged in violation of the agreement, the employee would be reinstated with compensation for the lost time. The parties had also agreed that since the arbitrator would be their final judge, both parties would refrain from instituting civil suits or legal proceedings against the other for alleged violations of the contract. . . .

The Court pointed out that the appellate court's decision refusing to enforce the reinstatement and back-pay award was not based on any finding that the arbitrator had exceeded his authority under the contract; the court of appeals simply disagreed with his interpretation of it. This, the Supreme Court held, is not the province of the court. It is the arbitrator's judgement which is bargained for by the parties, not the court's and the courts have "no business overruling him because their interpretation of the contract is different from his." His award is "legitimate," the Court held, ". . . so long as it draws its essence from the collective bargaining agreement." According to the Court, it is only when the arbitrator's words manifest infidelity to this obligation, that the courts may refuse to enforce his award. In the absense of evidence of such infidelity, the courts must enforce an arbitrator's award whether or not they agree with his interpretation of the contract. . . .

Case No. 3. The U. S. Supreme Court held[3] that in the absense of an express agreement excluding the contracting-out of work from arbitration, grievances arising from subcontracting must be arbitrated.

. . . The employer refused to arbitrate and successfully argued in both the district court and the court of appeals that the contracting-out of work was excluded from arbitration as a strictly management function.

The U. S. Supreme Court, in overruling the lower courts, held that since the Lincoln Mills[4] decision, an arbitration provision in a collective agreement could be enforced by virtue of section 301(a) of the Labor Management Relations Act. The Court stated that it is the policy of that act to promote industrial stability through the collective bargaining process. In order to effectuate this policy, it is necessary, according to the Court, to regard a collective bargaining agreement as far more than a mere commercial contract which parties are free to enter or avoid as they wish. In the Court's view, the collective bargaining agreement is a "generalized code" covering the whole employment relationship, which, unlike a commerical contract, usually exists before the contract is even executed.

[1] United Steelworkers v. American Manufacturing Co. (U. S. Sup. Ct., June 20, 1960).
[2] United Steelworkers v. Enterprise Wheel and Car Corp. (U. S. Sup. Ct., June 20, 1960).
[3] United Steelworkers v. Warrior and Gulf Navigation Co. (U. S. Sup. Ct., June 20, 1960).
[4] Textile Workers v. Lincoln Mills, 353 U. S. 448, . . . Monthly Labor Review, August 1957, pp. 967-977.

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> Therefore, the Court asserted that, apart from matters that the parties specifically exclude, all questions on which the parties disagree must come within the scope of the grievance and arbitration provisions of the contract. Since the exclusionary clause in the contract at issue did not expressly mention the contracting-out of maintenance work, it must be assumed that it was implicit in the arbitration clause. To hold otherwise would be to restrict the scope of the arbitration clause, which is itself a part of the continuing collective bargaining process protected by the congressional policy of favoring the settlement of disputes through the method agreed upon by the parties. Moreover, the Court pointed out that if the courts, in their legitimate function of determining what is arbitrable, were to consider what is strictly a management function and what is not, the "arbitration clause would be swallowed up by the exception." . . .

If these decisions are to have an impact on the scope of arbitration and arbitration procedures, it will become evident in agreements only after many years and presumably one or more contract renegotiations. This study of agreements in effect in 1961 and 1962, with some review of clauses in later agreements, undoubtedly occurred too soon after the trilogy decisions to measure or evaluate their influence on agreement language. A reference to changes in major electrical equipment agreements will be found on page 16.

Scope of Study

To preserve the continuity between grievance procedures and arbitration as subjects of study, the same agreements were analyzed in both studies.

This study is based on an analysis of 1,717 collective bargaining agreements, each covering 1,000 workers or more, representing practically all agreements of this size in the United States, exclusive of railroad, airline, and government agreements.[7] The 7.4 million workers covered by these agreements accounted for slightly less than half of all workers estimated to be covered by collective bargaining agreements in the United States, exclusive of railroad, airline, and government workers. Manufacturing establishments accounted for 1,045 agreements, covering 4.4 million workers; nonmanufacturing establishments, for 672 agreements applying to 3 million workers. Multiemployer groups negotiated 616 of the 1,717 agreements, covering 3.1 million workers.

All statistical data presented in this report relate to agreements in effect in 1961–62. Virtually all illustrative contract clauses reproduced in this report, however, were excerpted from agreements in effect in 1963–64.

In order to explore certain procedural and administrative matters in detail, a sample of nearly one-fourth (416) of the 1,717 agreements was analyzed. For this sample, every fourth agreement in each industry was selected from a list of agreements in descending order of worker coverage. Discussion based on this sample rather than on all agreements is identified in this report.

A review of references to arbitration of labor management disputes in selected union constitutions is presented in appendix A. Clauses were selected for quotation in this report to illustrate either the typical procedure or the variety of ways in which negotiators handle a specific problem. Minor editorial changes were made where necessary to enhance clarity and parts considered irrelevant were omitted where feasible. The clauses are numbered and the agreements from which they have been taken are identified in appendix E. In appendix B, several

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[7] For its file of agreements maintained under sec. 211 of the Labor Management Relations Act, 1947, the Bureau attempts to obtain copies of all agreements in the United States covering 1,000 workers or more. Railroad and airline agreements, which are filed with the National Mediation Board, are not sought by the Bureau and are thus excluded from all studies of agreement provisions. Federal Government agreements are excluded because of their special nature. For a more detailed description of the coverage of major agreements, see Major Union Contracts in the United States, 1961 (BLS Bulletin 1353, 1962).

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arbitration procedures are reproduced in their entirety to illustrate how the parts fit together in the whole. In appendix D, a variety of complete arbitration clauses negotiated by small companies (agreements covering fewer than 150 employees) are presented. None of the clauses quoted in this report is intended to represent a "model" clause.

Related Studies in Series

As indicated in the study of grievance procedures, specialized methods of adjusting disputes will be studied separately. For example, the handling of complaints and appeals in the administration of employee-benefit plans often is excluded from the regular grievance-arbitration machinery, as is the arbitration of disagreements between union and management trustees of multiemployer plans.

Prevalence of Grievance Arbitration[8]

Provision for arbitration of some or all grievance disputes was incorporated in 1,609 (94 percent) of the 1,717 agreements analyzed, covering 96 percent of the workers (table 1). The proportion of agreements providing for grievance arbitration reflects a steady increase in prevalence. In 1944, 1949, and 1952 Bureau studies, arbitration provisions were found in 73, 83, and 89 percent of the agreements, respectively.[9]

In 46 contracts, arbitration proceedings could be initiated only by mutual consent, i.e., if both parties agreed to arbitration. Approximately two-thirds of the 46 were concentrated in four industries—local trucking, electrical machinery, automobile, and chemicals. The remainder were scattered through manufacturing and nonmanufacturing industries.

In all but four industries, 90 percent or more of the agreements provided for grievance arbitration. The frequency of such contract provisions in the four industries was as follows: Lumber and wood products, 62 percent; primary metals, 88 percent; services, 89 percent; and construction, 82 percent. In the construction industry, 6 of the 31 contracts without arbitration provisions were negotiated by the National Electrical Contractors Association and the International Brotherhood of Electrical Workers. Disputes under contracts with these parties were to be settled through the Council of Industrial Relations for the Electrical Contracting Industry; the makeup of the council does not provide for an impartial third party.[10]

Twenty of the 108 agreements without provision for grievance arbitration were multiemployer agreements which also failed to provide for a formal grievance procedure.

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[8] The prevalence of clauses calling for arbitration of contract terms and jurisdictional disputes is discussed in chs. 8 and 9, respectively.

[9] See Arbitration Provisions in Union Agreements, BLS Bulletin 780, 1944 (this survey covered agreements in 14 selected manufacturing industries); "Arbitration Provisions in Union Agreements in 1949," Monthly Labor Review, February 1950; and "Arbitration Provisions in Collective Agreements, 1952," Monthly Labor Review, March 1953.

[10] See BLS Bulletin 1425-1, op. cit.

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Chapter II. Scope of Grievance Arbitration

All agreements providing for a grievance procedure and for arbitration of grievance disputes either explicitly or implicitly define the scope of the grievance and arbitration procedures, and the jurisdiction of the arbitrator. Only a small minority of agreements, as is demonstrated in this chapter, open the doors wide to admit any and all possible grievances into the grievance procedure and any and all grievance disputes to arbitration. Most agreements impose a restriction or exclusion in the grievance procedure, [11] or in arbitration, or in both.

In analyzing each of 1,609 agreements setting forth arbitration procedures, answers to the following questions were sought:

1. Are all grievance disputes (i.e., those not resolved in the last step of the grievance procedure) arbitrable?

2. If not, how does the scope of arbitration differ from the scope of the grievance procedures (i.e., what types of grievance disputes are nonarbitrable)?

3. Without considering the scope of the grievance procedure, how does the agreement define or limit the scope of arbitration or the arbitrator's jurisdiction? Which issues are excluded from arbitration, if any?

4. Finally, in conjunction with the presence, absence, or limitation of a no-strike, no-lockout provision in the agreement, can a dispute between the parties conceivably erupt into a work stoppage because it lies outside the scope of the grievance procedure and/or arbitration? (This is discussed in chapter 7.)

Questions such as these, as well as others dealt with later in this report, reflect an attempt to subject agreement language to close and sometimes literal scrutiny, as arbitrators themselves are often required to do. The intent of the parties, their day-to-day decisions, their exercise of reasonableness and responsibility, cannot be assessed in agreement analysis, and it is well for the reader to bear these limitations in mind, particularly in the discussion that follows.

Grievance Procedures and Arbitration

In 7 out of 10 agreements calling for grievance arbitration, all grievance disputes not satisfactorily resolved at the last step in the grievance procedure could be referred to arbitration, subject to the rules for referral (table 1). The jurisdiction of the arbitrator, in other words, matched the jurisdiction of the formal grievance procedure. The clause can be simply worded, as in the following example:

> In the event the dispute shall not have been satisfactorily settled in the preceding steps, the matter shall then be appealed to an impartial umpire . . . (1)

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[11] See BLS Bulletin 1425-1, op. cit., pp. 2 and 6.

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Table 1. Grievance Arbitration Provisions by Jurisdiction of the Arbitrator and by Industry in Major Collective Bargaining Agreements, 1961–62

(Workers in thousands)

Industry	Number studied		Number with grievance arbitration provisions		Jurisdiction of the arbitrator						No provision for grievance arbitration	
					All disputes going through grievance procedures		Certain types of grievance disputes excluded		Other [1]			
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
All industries	1,717	7,438.4	1,609	7,172.1	1,124	4,683.9	482	2,477.9	3	10.4	108	[2]266.3
Manufacturing	1,045	4,351.3	988	4,216.6	664	2,513.5	322	1,694.5	2	8.6	57	134.8
Ordnance and accessories	20	67.5	19	66.5	7	21.4	12	45.1	-	-	1	1.0
Food and kindred products	118	360.5	116	354.4	87	262.2	28	89.7	1	2.6	2	6.1
Tobacco manufactures	12	25.8	7	14.6	6	13.6	1	1.0	-	-	5	11.3
Textile mill products	31	81.2	31	81.2	21	59.7	10	21.5	-	-	-	-
Apparel and other finished products	53	456.2	53	456.2	50	451.2	3	5.0	-	-	-	-
Lumber and wood products, except furniture	13	26.1	8	16.5	7	15.2	1	1.4	-	-	5	9.6
Furniture and fixtures	19	33.2	18	31.8	15	28.0	3	3.8	-	-	1	1.4
Paper and allied products	57	125.9	56	124.7	44	102.7	12	22.0	-	-	1	1.2
Printing, publishing, and allied industries	34	70.8	34	70.8	24	48.3	10	22.5	-	-	-	-
Chemicals and allied products	53	102.0	53	102.0	24	43.8	29	58.2	-	-	-	-
Petroleum refining and related industries	15	49.2	15	49.2	12	39.1	3	10.1	-	-	-	-
Rubber and miscellaneous plastics products	29	126.2	29	126.2	23	73.7	6	52.5	-	-	-	-
Leather and leather products	19	66.9	19	66.9	11	35.0	8	32.0	-	-	-	-
Stone, clay, and glass products	41	110.3	40	109.1	27	63.1	13	46.0	-	-	1	1.3
Primary metal industries	113	627.6	99	600.5	72	519.0	27	81.5	-	-	14	27.1
Fabricated metal products	52	140.8	50	137.6	39	116.8	11	20.8	-	-	2	3.2
Machinery, except electrical	106	310.9	98	294.8	58	153.9	40	140.9	-	-	8	16.1
Electrical machinery, equipment, and supplies	105	421.0	100	413.6	53	166.5	47	247.1	-	-	5	7.5
Transportation equipment	120	1,074.4	108	1,025.1	62	250.7	45	768.5	1	6.0	12	49.3
Instruments and related products	24	53.5	24	53.5	13	32.4	11	21.1	-	-	-	-
Miscellaneous manufacturing industries	11	21.9	11	21.9	9	17.6	2	4.3	-	-	-	-
Nonmanufacturing	672	3,087.1	621	2,955.6	460	2,170.4	160	783.4	1	1.8	51	131.6
Mining; crude petroleum and natural gas production	18	237.8	18	237.8	10	218.2	8	19.6	-	-	-	-
Transportation [3]	115	681.1	113	678.3	85	567.1	28	111.2	-	-	2	2.9
Communications	80	501.3	77	481.4	18	111.3	59	370.1	-	-	3	19.9
Utilities: Electric and gas	79	195.1	77	192.8	63	139.1	14	53.7	-	-	2	2.3
Wholesale trade	13	25.2	13	25.2	13	25.2	-	-	-	-	-	-
Retail trade	106	289.9	103	284.6	79	227.7	23	55.2	1	1.8	3	5.3
Hotels and restaurants	37	171.2	34	163.2	33	154.1	1	9.2	-	-	3	8.0
Services	53	177.7	47	169.5	31	103.1	16	66.5	-	-	6	8.2
Construction	170	805.1	139	722.9	128	624.8	11	98.1	-	-	31	82.2
Miscellaneous nonmanufacturing industries	1	2.9	-	-	-	-	-	-	-	-	1	2.9

[1] 2 multiplant agreements provided for local plant negotiation of arbitration rules; and 1 multicompany agreement specified only discharge as arbitrable.

[2] Includes 20 agreements with no provision for grievance procedure.

[3] Excludes railroad and airline industries.

NOTE: Because of rounding, sums of individual items may not equal totals.

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In the balance of the agreements (3 out of 10), the scope of arbitration differed from the grievance provision, typically restricting the arbitrator's jurisdiction. For example:

> Disputes related to the interpretation or application of the terms of this agreement are grievances and shall be taken up for settlement in the simplest and most direct manner.
>
> Other disputes may be discussed in the grievance procedure, but are not subject to arbitration. (2)

The tendency to exclude certain grievance issues from arbitration was particularly pronounced in the chemical, machinery, electrical equipment, transportation equipment, and communication industries. In industries in which multiemployer bargaining predominates (e.g. apparel, mining, transportation, construction) a single standard for formal grievance settlement and arbitration prevailed.

The nature of the limitation on arbitration as against the grievance procedure is revealed when the scope of the grievance procedure is taken into account (table 2). Significantly, half of the agreements that opened the grievance procedure to any grievance restricted the scope of arbitration. On the other hand, only about 1 out of 8 agreements that limited grievance processing to complaints involving the interpretation, application, or violation of the agreement cut back the jurisdiction of the arbitrator. A total of 340 agreements, out of the 1,717 studied, provided what may be considered the ultimate in the handling of workers' complaints—every grievance was guaranteed a hearing and every grievance dispute a settlement.

Among the 485 agreements in which the jurisdiction of the arbitrator differed from the scope of the grievance procedure, 342 opened the grievance procedure to all complaints but limited the scope of arbitration, chiefly by restricting the arbitrator to disputes involving the interpretation, application, or violation of the contract (192 agreements) (table 3). Another 103 agreements so defined the scope of arbitration and also excluded one or more specific issues, while 45 agreements opened arbitration to any dispute with one or more specific exceptions. Where grievance procedures were limited to disputes involving the interpretation, application, or violation of the agreement, the arbitrator's jurisdiction was curtailed in 112 agreements by excluding one or more specific issues.

Jurisdiction of the Arbitrator

The jurisdiction of the arbitrator in grievance disputes is typically defined in two basic ways, whether expressed or implied—first, in relation to the disputes that are arbitrable and secondly, in relation to the scope of his decisions. In the latter, it was commonly stipulated, or, if not, implicitly accepted by the parties (including the arbitrator), that—

> The arbitrator shall have no authority to add to, subtract from, modify, or amend any provisions of this agreement. (3)

As indicated, most agreements (1,173) restricted arbitration to disputes involving the interpretation, application, or violation of the agreement (sometimes stated as disputes involving wages, hours, or working conditions). The job of the arbitrator under this direction was to apply the relevant agreement

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Table 2. Relation of Grievance Issues to Scope of Arbitration in Major Collective Bargaining Agreements, 1961–62

(Workers in thousands)

Grievance issues	Number of grievance provisions		Number of arbitration provisions		Jurisdiction of arbitration			
					Same as grievance provision		Differs from grievance provision	
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
Total	1,697	7,387.7	1,609	7,172.1	1,124	4,683.9	485	2,488.3
All disputes between parties—								
Without exception	742	3,517.3	682	3,350.1	340	1,600.9	342	1,749.3
1 or more issues excluded	48	331.6	48	331.6	23	108.5	25	223.1
Interpretation, application, or violation—								
Without exception	867	3,191.2	839	3,142.9	726	2,650.1	113	492.8
1 or more issues excluded	40	347.6	40	347.6	35	324.5	5	23.2

NOTE: Because of rounding, sums of individual items may not equal totals.

Table 3. Differences Between Arbitrator's Jurisdiction and Scope of Grievance Procedure in Major Collective Bargaining Agreements, 1961–62

(Workers in thousands)

Issues subject to grievance procedure	Number of arbitration provisions which differ from grievance procedure		Type of disputes subject to arbitration							
			All disputes—1 or more specific issues excluded		Interpretation, application, or violation without exceptions		Interpretation, application, or violation—1 specific issue or more excluded		Other	
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
Total	485	2,488.3	70	590.2	192	686.3	220	1,201.5	[1] 3	10.4
All disputes between parties—										
Without exceptions	342	1,749.3	45	367.1	192	686.3	103	691.5	2	4.4
1 or more issues excluded	25	223.1	25	223.1	-	-	-	-	-	-
Interpretation, application, or violation—										
Without exceptions	113	492.8	-	-	-		112	486.8	1	6.0
1 or more issues excluded	5	23.2	-	-	-	-	5	23.2	-	-

[1] See footnote 1, table 1.

NOTE: Because of rounding, sums of individual items may not equal totals.

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clause, as he interpreted it, to the facts of the case, as he found them. Specific exclusions were mentioned in 255 of these agreements.

Types of disputes subject to arbitration

	Agreements	Workers (in thousands)
All disputes between parties [1]	433	2,076.0
Without exception	340	1,600.9
1 or more issues excluded	93	475.1
Disputes over interpretation, application, or violation of agreement	1,173	5,085.8
Without exception	918	3,336.3
1 or more issues excluded	255	1,749.5
Other [2]	3	10.4

[1] Does not include disputes over new or revised contract terms or disputes over economic issues reopened during term of agreement.

[2] 2 multiplant agreements provided for individual plant negotiation of arbitration rules; 1 multicompany agreement specified only discharge as arbitrable.

NOTE: Because of rounding, sums of individual items may not equal totals.

Examples of agreement clauses so defining the jurisdiction of the arbitrator follow:

> In the event that any grievance or dispute arising out of the interpretation or application of any clause of this contract remains unsettled after the steps provided by the grievance procedure have been taken, either party, within 2 weeks, may refer the matter to a tripartite arbitration panel . . . (4)

* * *

> The term "grievance" as hereinafter used in this agreement shall mean any alleged violation of the terms or provisions of this agreement, or difference of opinion as to its interpretation and/or application . . .
>
> A grievance not settled in step 4 may be certified to arbitration by the party initiating the grievance so advising the other party in writing within 5 working days after the date of the last meeting held as required under step 4. (5)

* * *

> At the request of either party, as provided above, a dispute, grievance, or difference involving a violation of this agreement that cannot be satisfactorily settled between the parties, or grievances based on discharges shall be submitted to arbitration. (6)

* * *

> Whenever any complaint or misunderstanding arises as to wages, hours, working conditions, layoffs or discharges of individuals affected by this agreement, such complaints or misunderstandings shall be discussed with the foreman . . .
>
> If the grievance is not settled . . . the individual, the company or the union shall have the right to have the grievance submitted to arbitration . . . (7)

In 433 agreements, any dispute between the parties could be brought to arbitration, again except for specified excluded issues, as in the following examples:

> Any dispute or controversy arising during the life of this agreement, which cannot be settled to the mutual satisfaction of both parties, shall be submitted for arbitration . . . within 48 hours after the request of either party that such dispute or controversy be arbitrated . . . (8)

* * *

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It is agreed that, should any dispute arise in any plant of a member of the association, such dispute shall be adjusted . . . If the /grievance/ board fails to come to an agreement, it shall select an arbiter not connected with this industry . . . This arbiter shall review the case, and his decision shall be final and binding. (9)

* * *

Should grievances arise between the company and the union as to the application of this agreement, or of the policies of the company, as set forth herein, or should any dispute or trouble arise, an earnest effort shall be made to settle such differences during which time there shall be no suspension of work.

. . . In the event the dispute shall not have been satisfactorily settled in the preceding steps, the matter shall then be appealed to an impartial umpire . . . (1)

* * *

Adjustment Machinery

The method or machinery for the adjustment or settlement of disputes provided for in this article and in articles__ and__ /grievance and arbitration procedures/ of this agreement shall be applicable to any and all disputes, complaints, controversies, claims or grievances whatsoever between the union or any employees, on the one hand, and the employer or the association, on the other, which directly or indirectly arise under, out of, or in connection with, or in any manner relate to this agreement or to the breach thereof; or which arise under or out of the acts, conduct toward each other, or other relations between, the association or the employer, on the one hand, and the union, its members, or any other employees, on the other. . . .

The parties hereby agree that /name of individual/ shall act as the arbitrator in all disputes, complaints, controversies, claims or grievances mentioned in section__ of article__ hereof, including claims based upon any alleged breach of the "no-strike, no-stoppage, and no-lockout" pledges of this agreement or upon any other breach of this agreement, and disputes or controversies respecting the arbitrability of any dispute, controversy, claim, or grievance. (10)

The job of the arbitrator under these provisions presumably involves interpreting and applying the agreement to disputes arising under the terms of the agreement, or using his good judgment, his sense of the intent of the parties, available precedents, etc., to decide disputes upon which the contract is silent.

Issues Excluded From Arbitration

A total of 348 agreements, covering 2.2 million workers, identified one or more dispute issues as nonarbitrable. The reasons for such exclusions usually were not indicated by the agreements and, although they may have been fully understood by the parties, they are not always clear to outsiders reading the agreements. Some exclusions undoubtedly were intended to preserve certain management prerogatives, others to preserve union prerogatives. Some were necessary because the parties had agreed upon other methods of handling certain problems, and possibly some were motivated by a mutual desire not to overburden the arbitration machinery with trivialities. Exclusions in some cases appeared to represent a signal to workers in the bargaining unit that it would be pointless to raise a grievance over the designated issue. It seems reasonable to assume, however, that underlying many exclusions was a strongly held belief of one or both parties that the issue in question was too important or too subtle to be entrusted to a decision of a third party.

A number of the 348 contracts with specific exclusions listed more than one issue as nonarbitrable, resulting in a total of 456 exclusions (table 4). Almost half related to wage adjustments (other than general wage changes), and slightly over a fourth to plant administration disputes. The other exclusions principally related to job security, administration of employee benefit plans, and union security provisions.

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Table 4. Issues Excluded From Arbitration in Major Collective Bargaining Agreements, 1961–62 [1]

(Workers in thousands)

Item	Agreements	Workers
Number of agreements with issues excluded from arbitration [2]	348	2,224.6
Wage adjustments	207	1,115.3
Individual wage-rate inequities	73	599.5
Job classification and evaluation	67	309.0
Incentive or piece rates or administration	27	86.5
All wage grievances	20	70.1
Individual wage adjustments: merit increases	13	36.0
Portal-to-portal pay	6	13.2
Method of payment	1	1.0
Job security	22	105.4
Promotion and/or demotion	12	61.7
Training and retraining	5	333.6
Layoff, recall and/or transfer	5	10.1
Administration of supplementary benefits	75	998.1
Benefit plans	69	961.8
Military leave	5	34.2
Compulsory retirement	1	2.1
Plant administration	125	799.4
Management rights	30	94.0
Production standards	29	430.0
Discharge and discipline	34	158.0
Health and safety	9	23.6
Scheduling of hours and overtime	8	19.5
Working conditions	4	25.0
Patent plans	4	18.0
Work assignments	2	11.2
Requests for leave	2	3.2
Union charges against foreman	1	8.5
Subcontracting	1	7.0
Government security clearance	1	1.4
Administration of union security provisions	15	62.3
Questions which might affect or change union security clause	10	33.8
Violation of hiring clause	3	25.1
Union refusal of membership	1	2.2
Employer violation of checkoff	1	1.2
Other issues	12	60.2
Issues relating to union or employer association laws	4	10.4
Discretionary payments by the employer	1	18.5
Employer failure to furnish specified tools	1	2.0
Pay provision violations	1	1.2
Only arbitrable issues specified; exclusions not listed	5	28.1

[1] This table accounts for the 93 agreements which excluded 1 issue or more from arbitration of all disputes, and the 255 which excluded 1 issue or more from arbitration of disputes over interpretation, application, or violation of the agreement. (See text table.)

[2] A number of the 348 agreements excluded more than 1 issue, resulting in a total of 456 exclusions.

NOTE: Because of rounding, sums of individual items may not equal totals.

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Wage Adjustments. Disputes concerning alleged wage-rate inequities comprised 73 of the 207 exclusions in this category. Such disputes were excluded from grievance and arbitration in Steelworkers agreements in basic steel and, to a large extent, in related industries. Most of these exclusions date back to the introduction of job evaluation and classification plans in the steel industry after World War II.[12] Under the agreements studied, classifications and rates for new or changed jobs were arbitrable.

The following excerpts from the U.S. Steel agreement illustrate how this exclusion was expressed in basic steel agreements:

> No basis shall exist for an employee, whether paid on an incentive or nonincentive basis, to allege that a wage-rate inequity exists and no grievance on behalf of an employee alleging a wage-rate inequity shall be filed or processed during the term of this agreement.
>
> Grievance as used in this agreement is limited to a complaint . . . which involves the interpretation or application of, or compliance with, the provisions of this agreement . . .
>
> Whenever either party concludes that further step 4 meetings cannot contribute to the settlement of a grievance, the dissatisfied party may, by written notice served simultaneously on the board [of arbitration] and the other party within 30 days from receipt of the minutes of the last step 4 meeting, appeal the grievance to the board.
>
> If the decision in this step is not appealed to arbitration as above provided, the grievance shall be considered settled on the basis of such decision and shall not be eligible for further appeal.
>
> Description and classification for new or changed jobs are subject to grievance and arbitration. (11)

Clauses excluding wage-rate inequity disputes from arbitration also were scattered through various other industries, in both manufacturing and nonmanufacturing. Some of these agreements followed the steel pattern; others merely stated that wage-rate inequity disputes were not arbitrable.

Ninety-four of the wage adjustment exclusions related to incentive or piece rates, new or changed job classification and evaluation, or job rates. Disputes over these issues were either excluded from arbitration or arbitration was limited to disputes involving the administration of the procedures or plans. For instance, several agreements excluded the job evaluation plan but permitted arbitration of new or changed job grades, limiting the issue in question to determining whether the evaluation plan was properly administered. Others excluded incentive rate grievances, except for determination of whether the procedures outlined for setting rates were followed. Several of these issues were frequently excluded in the same clause; in other instances, the exclusion was stated in the section of the agreement relating to the specific issue.

Examples of the foregoing follow:

> Job Classifications
>
> Section 1. The company shall make no changes in the classification of jobs covered by this contract without first giving the union notice of the proposed change and affording the union an opportunity to bargain concerning such change. In the event of a dispute the company shall furnish the union all pertinent information concerning the job which is to be changed.
>
> Section 2. Any grievance concerning changes in job classifications shall be subject to the first three steps of the grievance procedure as provided in article__ but shall not be subject to step 4 or step 5 [arbitration] of said grievance procedure. (12)

* * *

[12] See BLS Bulletin 1425–1, op. cit., p. 8.

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Any dispute between the company and the union respecting the operation, application or interpretation of this article may be submitted by the company or the union for determination in accordance with article__, grievance procedure.

The provisions of article__, arbitration, of this agreement shall apply to the provisions of this article but not to the job evaluation plan, and also the authority of the arbitrator shall be limited to the determination of whether or not the company has properly administered the plan in making a job-grade designation as compared to all similar and comparable job-grade designations.

The union shall have the right to call to the attention of the company job-grades which it feels are incorrect. However, only formal job-grades which have been in effect for a period of 12 months or less shall be subject to the procedures outlined in article__, grievance procedure, and article__, arbitration. (13)

* * *

When the company adds a new job to the bargaining unit it will determine the base rate and notify the union. If the union disagrees with the base rate determined by the company, it may institute a grievance . . . If no agreement is reached, the grievance may be referred to the regular fourth step of the grievance procedure but may not be arbitrated. (14)

* * *

Arbitration of job classification, wage rate, merit rating, and incentive rate and allowance questions is limited to the following: (a) with regard to job classifications, whether an employee is classified in the proper job classification, (b) with regard to merit rating, whether the employee involved has been rated in accordance with the merit rating procedure and without personal discrimination, (c) with regard to incentive rates or allowances which have not become established after a reasonable trial period, whether the establishment or change is contrary to the provisions of this agreement, (d) with regard to incentive allowances set under the standard data or "measured minute" system, whether an error or mistake has been made in the use and application of standard data to determine the incentive allowance, (e) with regard to jobs the union claims are new or the content of which the union claims has been changed within the preceding 6 months, whether the jobs are new or the content has been changed, and (f) with regard to descriptions or evaluations of jobs (grievances as to which may be filed by the shop committee in step-3 of the grievance procedure by notice in writing . . .), with respect to descriptions, whether the descriptions are accurate and complete, and with respect to evaluations, whether the company's factor ratings of the evaluated jobs are proper on the basis of comparison with factor ratings of other jobs in the plant. (15)

Grievances over individual wage adjustments, excluded from arbitration in 13 agreements, related mainly to periodic reviews of rates, or to the administration of merit increase plans.

The company shall review, once each year during the term of this agreement, the base rates of all employees whose rates are at or above the job rate of their job grade and may make such adjustments in individual rates as it considers appropriate.

The effect of the rate review on employees as individuals only, and not as a group, may be made the subject of a grievance . . . but such grievance will not be subject to . . . arbitration. (16)

* * *

Arbitration of . . . merit rating . . . is limited to the following: . . . whether an employee has been rated in accordance with the merit rating procedure and without personal discrimination, and if not, to direct that the employee be rerated in accordance with said procedure and without personal discrimination or to determine his merit rating . . . (15)

* * *

Merit increases in the maintenance and battery pilot laboratory experimental and development operators may be granted . . . Neither shall be subject to the grievance procedure nor shall merit increases . . . be proper subjects for arbitration. (17)

More general clauses, excluding all wage adjustment disputes, were found in 20 agreements. These clauses either stated that grievances relating to wages

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were not arbitrable, or prohibited the arbitrator from determining any dispute relating to wages:

> The matter of wages is not to be a subject of arbitration. (18)
>
> * * *
>
> Should a grievance arise over wages it shall not be subject to the arbitration procedure. (19)
>
> * * *
>
> The arbitrator shall have no power to: . . . hear or determine any issue involving wage rates or rates for new classifications. (20)

One agreement excluded changes in the method of payment, as follows:

> Change in Method of Payment. The union agrees that the company has a right to institute changes from hourly rates to piece rates, or incentive rates, or from piece rates to incentive rates, or from piece rates or incentive rates to hourly rates without agreement on the part of the union. The company's right to make such changes in the method of pay shall not be subject to arbitration. (21)

Portal-to-portal pay was excluded from arbitration in the remaining six clauses relating to wage adjustment exclusions.

Plant Administration. Disputes over plant administration matters were removed from arbitration in 118 instances. In 88, specific issues, such as production standards, discharge and discipline, and scheduling of hours and overtime, were excluded; all of these related to management's rights in the operation of its plant. The remaining 30 specifically excluded management rights as such. In the latter, the extent of exclusion was determined by the management rights clause set forth in the agreement, which varied from a listing of a variety of specific rights vested solely in management to fairly simple statements of the company's right to direct its operations.[13] Following are examples of the manner in which the arbitrator's authority was limited:

> . . . The arbitrator shall have no authority to consider matters relating to management prerogatives, or any other matter not specifically set forth in this agreement. (3)
>
> * * *
>
> . . . The arbitrator's authority shall be limited to applying and interpreting the express terms and conditions of this agreement. He shall not have authority to deal with wage rates or with any matter that is reserved to management by article__ (management clause) hereof (except to the extent that this agreement expressly limits said rights), or to add to, subtract from, or otherwise amend or modify the terms of this agreement; provided however that he may find that an employee is not receiving the established rate for the work to which he is assigned. (22)
>
> * * *
>
> If the union and the company fail to settle by negotiation any differences arising with respect to the interpretation of this agreement, or the performance of any obligation hereunder, . . .
>
> Provided that such dispute does not involve the exercise of the company's rights of management, unless limited by other provisions of this contract; . . .
>
> Such differences shall be referred . . . to an imparital arbitrator mutually agreeable to both parties. (23)

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[13] Major Collective Bargaining Agreements: Management Rights and Union-Management Cooperation (BLS Bulletin 1425-5, 1966).

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The General Electric and Westinghouse contracts, negotiated in October 1963, reflected adjustment to the 1960 decision of the U.S. Supreme Court in the Warrier and Gulf Navigation case,[14] discussed in chapter I. The IUE agreements with GE and Westinghouse provided for arbitration by either party only of disputes concerning disciplinary actions and violation of specific provisions of the agreements. In addition, a number of specific issues were listed as excluded from arbitration except by mutual consent of both parties. The UE agreements permitted arbitration at the request of either party only of disputes concerning disciplinary penalties; all other disputes were arbitrable only by mutual consent. The earlier contracts, negotiated in 1960, and included in this study, did not list issues excluded from arbitration at the request of either party, except disputes relating to benefit plans.[15] A copy of the arbitration provision in the 1963–66 GE-IUE agreement is included in appendix C of this report.

Exclusions involving production standards appeared in 29 agreements covering about 430,000 workers. Agreements negotiated by the United Auto Workers in the transportation equipment industry accounted for a large portion of these workers.

Some of the clauses excluded all disputes relating to production standards:

> Without limiting the foregoing, the subjects of . . . and production standards are by this section excluded from arbitration, . . . (24)
>
> * * *
>
> The arbitrator shall have no power to . . . rule on any dispute involving a production standard or the failure to meet a production standard or the methods or procedures used in establishing a production standard. (25)
>
> * * *
>
> He /the arbitrator/ shall have no power to rule on any dispute arising under article__, section__ /production standards/ of this agreement . . . (26)

Other agreements appeared to limit the exclusion to disputes concerning new or changed production standards, usually resulting from changes in methods or machinery, as in the following:

> Section 2. Present output and accuracy standards shall not be changed unless there is a change from the existing standards in the (a) methods, (b) procedures, (c) equipment, or (d) work content of the job. . . .
>
> Section 4. Any grievance under this article, shall be processed through the first two steps of the grievance procedure as provided in article__ but shall not be subject to step 3 or step 4 /arbitration/ of said grievance procedure. If the grievance is not settled after the second step of said grievance procedure, the grievance shall be submitted to the company's labor relations director for a final and binding decision. Upon request of the union, the company's labor relations director shall review all information pertinent to the grievance with a representative of the union before making his decision. (27)
>
> * * *
>
> Any dispute concerning an increase in a production standard which has been increased after the date of this agreement, or any dispute concerning the addition of machines to an operation, which addition of machines does not conform to past practice and occurs after the date of this agreement, may be referred to the grievance procedure beginning with step 1, but shall not be subject to arbitration. (28)
>
> * * *

---

[14] United Steelworkers v. Warrior and Gulf Navigation Co. (U.S. Supreme Court, June 20, 1960).

[15] The 1960 Westinghouse–UE agreement did not provide for arbitration at the request of either party; all unsettled disputes were arbitrable only by mutual consent of both parties.

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> The company shall also have the right to establish production standards and the frequency of inspection. However, any question arising as to the adequacy of any production standard or inspection frequency shall be subject to grievance procedure but not arbitration. (29)

Another type of clause permitted arbitration over a workload change but excluded the issue of time elements established by the company:

> In the event that a grievance over a workload change is referred to arbitration the time elements established by the company in accordance with its customary methods shall not be subject to arbitration. (19)

Of 34 agreements which restricted arbitration of disputes relating to discharge and discipline, only 4 excluded all such issues, as in the following:

> Nothing in these working conditions pertaining to discipline shall be the subject of arbitration between the parties. (30)

Two of these were in public transportation, one in the ordnance industry, and the fourth in printing. The latter agreement provided for final appeal of discharge cases, by either party, through the appeals procedure of the union (Typographical Union) in accordance with the International's by-laws.

The other 30 contracts excluded only those disciplinary disputes involving specific issues or circumstances. Some of these limited the exclusion to disciplinary action, including discharge, for participation in unauthorized strikes, but permitted arbitration to determine the facts—i.e., whether or not the disciplined employee actually violated the no-strike clause. For example:

> Discharge of Unauthorized Strikers. The union shall not question the unqualified right of the company to discipline or discharge employees engaging in, participating in, or encouraging such action. It is understood that such action on the part of the company shall be final and binding upon the union and its members and in no case shall be construed as a violation by the company of any provision of this contract.
>
> Questions of Participation. Where the company has discharged or disciplined an employee under this provision, a claim that the employee did not participate in the strike or other interference with production, or encourage such action, may be submitted as a grievance. However, only the question of participation, nonparticipation, or encouragement of such action can be determined by arbitration. (31)
>
> * * *
>
> Strikes, slowdowns or any other interference with the orderly and efficient operation of the company's plant during the term of this agreement shall be deemed a violation by those employees who engage in same. Those employees who so violate this agreement will be subject to discharge or disciplinary action by the company and such action shall not be a subject for arbitration except as to the facts of participation by those employees. (32)

One of the agreements also included a similar clause relating to discipline for damage to company property and other unlawful acts during an authorized strike:

> If a strike is called under this section of the agreement [wage reopening], it is agreed that the union and the strikers shall refrain from damaging company property and from unlawfully and specifically interfering with, restraining or coercing employees in their right to work during this strike. Any violation of this provision, either on or off company property, shall constitute proper cause for the discipline or discharge of such violators, except as to the facts of commission in any such violation of this provision. (32)

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Discharge and discipline disputes involving short-service employees—from less than 1 year to less than 3 years—were excluded in several telephone agreements:

> Section 16.02. In the event any employee having less than 6 months of net credited service is dismissed, the matter shall not be subject to the grievance procedure.
>
> Section 16.03. In the event any regular employee of more than 6 months of net credited service hereafter discharged for cause files a written claim with the company, . . . that he has been discharged without proper reason, such claim shall be handled in accordance with the procedure prescribed in article__ (grievance procedure), but the matter shall not be subject to arbitration except as provided in section 16.04.
>
> Section 16.04. In the event the question as to whether any regular employee of more than 2 years of net credited service was discharged without proper reason is not settled under the grievance procedure, either party may require that the question at issue be submitted to arbitration pursuant to the provisions of article__ (arbitration). (33)

Disciplinary measures resulting from infraction of specific company rules, such as intoxication, fighting on the premises, thievery, and insubordination, were excluded in a few contracts, as in the following:

> Nothing in this agreement shall be interpreted as preventing the discharge of a shop employee for just cause . . .
>
> It is further agreed that grievances due to consuming intoxicants in the plant, fighting in the plant, thievery, refusal to accept an assignment in an individual's classification and infractions of current attendance requirements shall not be arbitrable. (34)

Issues involving health and safety, hours of work, distribution of overtime or premium-rate work, patents, or other working conditions were excluded in a few agreements.

> The union shall have the right to take up grievances through the regular channels on safety, health or accident issues, but any such grievances shall not be subject to the arbitration provision of this agreement. (35)
>
> * * *
>
> Matters pertaining to . . . working hours, . . . or health and safety shall not be submitted to arbitration. (36)
>
> * * *
>
> The company will endeavor to distribute the opportunity-to-work time which requires payment at premium or overtime rates as equitably as the needs of the service will permit. Such work opportunity occurring during an employee's absence from the job (vacations excepted) may or may not be considered by the company in distributing subsequent work opportunity. The provisions of this section shall not be subject to arbitration. (37)
>
> * * *
>
> A grievance concerning distribution of overtime within a department will be discussed between the company and the union through the first three steps of the grievance procedure but shall not be subject to arbitration. (38)
>
> * * *
>
> Grievances concerning working conditions not specifically covered by the terms and conditions of this agreement shall be subject to the grievance procedure up to but not including step 6, arbitration. However, if the company and the union are unable to reach an agreement in step 5, the decision of the party whom the grievance has been filed against shall be final and binding on both parties to this agreement. (39)
>
> * * *

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The board shall have jurisdiction over all questions involving the interpretation and application of any clause of this agreement. It shall not handle negotiations for . . . or changes in . . . hours of work, working conditions. . . . (40)

* * *

No grievance or dispute concerning the interpretation or application of this article or such patent contract, or the patent plan referred to therein, shall be subject to the provisions of section__ of article__ (arbitration) hereof, but any such grievance or dispute may be adjusted in accordance with the provisions of section__ of article__ (grievance procedure) hereof. It is recognized that resort to grievance procedure by an employee under this section shall in no way limit, effect, or prejudice any cause of action arising out of such patent contract or patent plan. (41)

Other plant administration issues, excluded in one or two instances, involved work assignments, requests for leave, subcontracting, government security clearance, and union charges against the foreman.

Notwithstanding any other provisions of this agreement, no arbitrator shall without specific written agreement of the company and the union with respect to the arbitration proceeding before him, be authorized to:

Establish or modify . . . any work assignment of employees either within or outside any bargaining unit covered by this agreement; . . . (42)

* * *

A request for leave of absence in excess of 2 weeks which has been denied may be submitted to the grievance procedure but not to arbitration. (43)

* * *

The company will give the union at least 90 days' notice of its intention to contract out production or maintenance work then being performed by employees covered by this agreement, if such contracting out of work will result in the layoff of employees covered by this agreement, and will discuss such action with union representatives. Contracting out of work shall not be subject to the grievance procedure or arbitration and in all cases the final decision will be left to the company. (44)

* * *

It is understood that there shall be no liability on the part of the company or the union for any suspension growing out of a denial of clearance by the U. S. Government; however, nothing in this agreement shall preclude the individual from following any legal remedy he may have against any other person or organization by virtue of the suspension under this clause.

Suspension because of denial of security clearance by the proper U. S. governmental agency shall not be subject to the grievance or arbitration procedure, but such suspension shall in no way diminish the right of the individual to pursue his appeal as outlined above. (45)

* * *

If charges are preferred against a foreman, his employer shall be notified at once in writing as to the nature of the charges. If the charges are sustained at his trial, the penalty imposed shall not be enforced for 2 weeks, and the employer shall have the right to have the matter discussed by the joint arbitration board after the New York Executive Committee of the Bricklayers' Unions has rendered its decision. It is understood that such decisions of the New York Executive Committee of the Bricklayers' Union are not subject to arbitration hereunder. (46)

Job Security. Issues closely related to job security, such as layoff, recall, transfer, promotion or demotion, and training and retraining, were excluded from arbitration in only 22 agreements. Approximately half of these excluded all aspects of the issues; the remainder permitted the arbitrator to determine if management had acted arbitrarily or in bad faith.

In selecting employees covered by this agreement for assignments to higher-rated nonmanagement title classifications specified in section__, seniority will govern among the group of employees considered by the company to be best qualified and otherwise suited to fill the particular vacancy. The provisions of this section may be referred to the grievance procedure set forth in article__, but neither the provisions of this section nor their application shall be subject to arbitration. (47)

* * *

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Promotions or layoffs resulting from reduction in the number of employees or reduction of a work-week shall, where ability and efficiency are equal, be based upon departmental seniority in each store. The company's determination as to ability and efficiency shall be conclusive and shall not be subject to review or reversals by grievance procedure, arbitration or otherwise. (48)

* * *

Retraining and/or Reassignment

When employees are faced with layoffs or contemplated layoffs caused by automation, mechanization or other reasons and in cases of contemplated plant expansions or changes in plant technology or otherwise, employees with 3 or more full years of continuous service may be retrained and/or reassigned to acquire necessary skills for jobs requiring such skills . . .

Any question that may arise under the provisions of this article or any local agreement entered into under it shall be handled in accordance with the established grievance procedure of the contract. Arbitration shall be by mutual agreement only. (49)

* * *

The company shall take seniority into consideration in selecting employees for training. Nothing in this provision shall limit the company's right to select employees for training who, in its judgment, are best qualified to receive such training. Neither the provisions of this section nor their application shall be subject to arbitration. (47)

* * *

Section 3. When a specific training program is needed by the company, the matter will be discussed with the union . . .

. . . In the event no agreement can be reached in a reasonable time, the company, nevertheless, shall have the right to institute the specific training program and the union shall be entitled to process a grievance through the grievance procedure on any of the above details that may be in dispute. Nothing in this section shall be subject to arbitration except disputes under section__ /trainee or apprentice wage scale/ herein.

Section 4. When there is no longer the need for a specific training program, the company shall be free to terminate such training program. This section shall not be subject to arbitration. (50)

* * *

Promotions to higher paid positions . . .

Section 2. The decision of the company on any question as to the qualifications of the employees considered for a higher-rated assignment shall be controlling unless the company is shown to have acted arbitrarily, or in bad faith. Any claim that the company has acted arbitrarily or in bad faith in its decision as to the qualifications of the employees considered for the transfer may be taken up as a grievance and, if necessary, submitted to arbitration in accordance with article__ of this agreement.

Section 3. Except as otherwise provided in section 2, neither the provisions of this article nor their interpretation or the performance of any obligation thereunder shall be subject to arbitration under article__ of this agreement. (51)

* * *

Grievances growing out of discharge, layoff, promotion, demotion, hiring, rehiring and transfer, shall be subject to the grievance procedure, but no arbitrator shall have the power to substitute his judgment for that of management, unless he finds that the management has acted arbitrarily or for an ulterior motive or through a mistake in fact or in violation of this agreement. (52)

Two or more job security issues were frequently cited for exclusion in the same clause, as illustrated in the foregoing clauses.

One of the five agreements which limited arbitration of layoff disputes excluded only disputes concerning the number of employees to be laid off:

The number of employees to be terminated for lack of work at any time or in any work category or classification shall not be subject to arbitration. (53)

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Another agreement excluded from arbitration of layoff disputes only those arising due to the layoff of union representatives, under an arrangement granting superseniority to such employees:

> . . . In the case of decrease of force, union officers and grievance committeemen shall be given preference. It is understood and agreed that any grievance arising as a result of the above shall not become a grievance matter for the company to settle. (54)

Supplementary Employee Benefits. Complaints and appeals relating to the administration of supplementary employee benefits were not subject to arbitration in 75 agreements. [16]

Nearly all of these clauses referred to the administration of benefit plans—health, insurance, pension, and supplementary unemployment benefits.

> The umpire shall have no power to rule on any issue or dispute arising under the pension plan, insurance program and the supplemental benefit plan section or waiver section. Any case appealed to the umpire on which he has no power to rule shall be referred back to the parties without decision. (55)
>
> * * *
>
> . . . it is specifically agreed that arbitration requests shall be subject only to voluntary arbitration, by mutual agreement, if they . . . pertain in any way to the establishment, administration, interpretation or application of insurance, pension or savings plans, or other benefit plans in which employees covered by this agreement are eligible to participate . . . (56)
>
> * * *
>
> Section 24.1. In the event . . . the company desires to make a change in the "Plan for Employees' Pensions, Disability Benefits and Death Benefits" . . . no change may be made in the plan which would reduce or diminish the pensions, disability benefits and death benefits . . . without the consent of the union.
>
> Section 24.2. Any claim that section 24.1 . . . has been violated may be presented as a grievance . . . and . . . may be submitted to arbitration. . . but in such case any decision or action of the company shall be controlling unless shown to have been discriminatory or in bad faith, and only the question of discrimination or bad faith shall be subject to the grievance procedure and arbitration. However, nothing in this contract shall be construed to subject the plan or its administration to arbitration. (57)

Grievances involving administration of military leave arrangements were excluded from arbitration in 5 of the 75 clauses in this category.

> Grievances involving the interpretation or application of the provisions of this military absence agreement may be processed through the established grievance procedure in the general agreement between the parties, but in no event shall any such grievance be subject to arbitration. (58)

Disputes over retirement under a compulsory retirement provision were excluded in one agreement, as follows:

> It is agreed that . . . the retirement of any employee under the compulsory provisions of the pension plan referred to in article__ hereof shall not be made the subject of a grievance or be arbitrable hereunder. (59)

---

[16] Dispute settlement procedures of employee benefit plans will be studied separately.

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Union Security. Ten of the 15 clauses in this category excluded arbitration of any questions which might affect or change the union security arrangement. All 10 were in retail trade, negotiated by the Retail Clerks International Association, and were similar to the following:

> Arbitrator. The arbitrator or board of arbitration shall not have the authority to decide questions involving the jurisdiction of any local, or of the international, or which may in any way affect or change the union security clause. (60)

The remaining five clauses excluded disputes involving violation of the hiring provision (3) or checkoff provision (1), or of the union's right to refuse membership (1).

> Employment—/Union/ Referrals. Whenever the /employer/ seeks to fill a vacancy by initiating a search for applicants from outside its staff, the /employer/ wherever practicable will afford the /union/ an opportunity to supply applicants.
>
> Nonarbitrability. . . . the /union/ may discuss any matter arising under section __, . . . of this article__, but such matter shall not be arbitrable . . . (61)
>
> * * *
>
> If the employer is charged with failure to pay the proper wage rate or failure to make proper deductions from the wages of the employees, the employer and the secretary of the association shall be given 8 days' notice of such failure by registered mail during which 8 days the parties shall attempt to settle the claim. In the event the parties are unable to settle the claim after that time, the union may take such action as it deems advisable. (62)
>
> * * *
>
> The arbitrator is not given any power under the terms of this agreement, any provision to the contrary notwithstanding, to determine any question as to the union's right to refuse membership to any person. (63)

Other Issues. Matters relating to internal laws of the union or the employer association, not in conflict with the agreement, were excluded from arbitration in four printing agreements.

> This agreement to arbitrate shall not include such matters as have to do solely with the internal laws of the league /association/ or the union, relating to the self government of either and which laws in no way react to remove wages, hours and working conditions from the scope of this agreement. (64)
>
> * * *
>
> It is further understood and agreed that local union laws in effect January 1, 1964, not affecting wages, hours or working conditions, and the laws of the international /union/ not in conflict with this agreement shall not be subject to arbitration. (65)

Other miscellaneous issues, excluded in one agreement each, were: Failure of the employer to furnish specified tools; "discretionary" payments by the employer; and violation of the pay provision.

Exclusions were implied in five agreements by specifying only those issues which could be resolved by the arbitrator, thereby excluding any other matters.

> The jurisdiction of the board of arbitration shall be limited to grievances arising out of the interpretation and application of the following articles of this agreement; namely, article 4—discipline and discharge; article 6—seniority; article 7—hours and workweek; article 8—reporting time; article 9—holidays; article 11—shift differentials; article 14—vacations; article 16—lunch periods; article 18—bulletin boards. (66)

A few agreements which excluded specific issues also listed all issues subject to arbitration (the excluded issues were tabulated in the appropriate categories discussed previously). Included in this group were the General Motors

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national agreements with the UAW and IUE, from which the following clause was excerpted:

> Powers of the Umpire
>
> It shall be the function of the umpire, after due investigation and within 30 days after submission of the case to him, to make a decision in all claims of discrimination for union activity or membership and in all cases of alleged violation of the terms of the following sections of this agreement, and written local or national supplementary agreements on these same subjects: Recognition; representation; grievance procedure; seniority; disciplinary layoffs and discharges; call-in pay; working hours; leaves of absence; union bulletin boards; establishment of new plants; strikes, stoppages and lockouts; wages, except paragraph (97); general provisions; apprentices—represented; skilled trades; vacation pay allowances; holiday pay; paragraphs (79) through (79f), relative to procedures on production standards; and of any alleged violations of written local or national wage agreements. The umpire shall have no power to add to or subtract from or modify any of the terms of this agreement or any agreements made supplementary hereto; nor to establish or change any wage; nor to rule on any dispute arising under paragraph (78) regarding production standards. The umpire shall have no power to rule on any issue or dispute arising under the pension plan, insurance program and supplemental unemployment benefit plan section or the waiver section. Any case appealed to the umpire on which he has no power to rule shall be referred back to the parties without decision. (55)

Disputes Under Prior Agreements

Reference to disputes which might exist or arise, based on alleged occurrences under prior agreements, were relatively infrequent. A few agreements, principally in the steel industry, permitted arbitration of some or all of these grievances. Of note was the U.S. Steel national agreement, which provided for processing of such disputes through the current grievance and arbitration procedure; adjustment was to be made under the applicable provisions of the prior and current agreements for the corresponding periods. A few small agreements included clauses similar to the following U.S. Steel provision:

> Section 20 Prior Agreements
>
> The terms and conditions established by this agreement replace those established by the agreement of January 4, 1960, effective as of July 1, 1962, except as otherwise expressly provided in this agreement.
>
> Any grievance which as of the effective date of this agreement has been presented in writing and is in the process of adjustment under the grievance procedure of the January 4, 1960, agreement may be continued to be processed under the grievance and arbitration procedures of this agreement and settled in accordance with the applicable provisions of the applicable prior agreement for the period prior to the effective date of this agreement and for any period thereafter in accordance with the applicable provisions of this agreement.
>
> Any grievance filed on or after the effective date of this agreement which is based on the occurrence or nonoccurrence of an event which arose prior to the effective date of this agreement must be a proper subject for a grievance under this agreement and processed in accordance with the grievance and arbitration procedures of this agreement. Such grievance shall be settled in accordance with the applicable provisions of the January 4, 1960, agreement for the period prior to the effective date of this agreement, and for any period thereafter in accordance with the applicable provisions of this agreement. (11)

A few other agreements, including the Jones and Laughlin and Bethlehem Steel agreements, permitted processing through arbitration of only pending grievances which had been in process of appeal or adjustment under the grievance procedure. Following are excerpts from the Jones and Laughlin and Bethlehem Steel contracts:

> No grievances which arose prior to the date of this 1962 agreement shall be taken up for adjustment except those grievances which as of the date of this 1962 agreement have been appealed in writing from a decision in the steps of the grievance procedure defined in the 1960 agreement or are in the process of being adjusted. Such grievances shall be considered under the procedures of section__ of this 1962 agreement and shall be determined in accordance with the applicable provisions of this 1962 agreement. (67)

* * *

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Any alleged grievance which was presented under a prior agreement between the company and the union and which is still pending and not finally disposed of by July 1, 1962, shall be handled in accordance with the provisions of this article and shall be determined in accordance with the applicable provisions of such prior agreement which were in effect at the time when such alleged grievance arose. (68)

On the other hand, a few agreements specifically prohibited arbitration of disputes existing or arising under prior agreements:

The board shall not take jurisdiction of any dispute or grievance arising under any prior agreements. (24)

* * *

The provisions of this section—[arbitration] shall be inapplicable to any complaint or grievance existing, arising or based upon any act or omission of the company occurring, prior to the signing of this agreement. (69)

Question of Arbitrability

Disputes may arise over whether an issue falls within the scope of the arbitration clause. This problem was recognized in a number of contracts by inclusion of a requirement that the arbitrator refer back to the parties any issue which he held to be nonarbitrable, usually without a decision or recommendation.

Any case appealed to the arbitrator on which he had no power to rule shall be referred back to the parties without decision. (70)

* * *

The arbitrator shall have exclusive authority to determine whether he has jurisdiction over any matter submitted to him for arbitration. Any case appealed to the arbitrator on which he determines he has no power to rule shall be referred back to the parties without decision or recommendation. (71)

* * *

If a controversy arises as to whether or not the grievance is based upon the interpretation of, or compliance with, this agreement, such controversy shall be decided by the arbitrator. If the arbitrator decided that the grievance is not within his jurisdiction because it is not based upon the interpretation of, or compliance with, this agreement, the arbitrator shall return the grievance to the parties without comment. (38)

* * *

If any question arises as to whether a particular dispute is or is not a proper grievance within the meaning of these provisions, the question may be reserved throughout the grievance procedure and determined, if necessary, by the arbitrator. (72)

* * *

Any case appealed to the arbitration panel which it decides is not arbitrable under this agreement shall be referred back to the parties. (73)

Clauses which provided for determination of arbitrability in the event of a dispute over this question usually specified submission of the question to the arbitrator, for determination prior to hearings:

In the event that either party takes the position that a certain matter is not arbitrable, the question of arbitrability shall be submitted to arbitration together with the dispute on the merits of the matter before the abritrator. (74)

* * *

It is agreed that if there is a dispute as to whether or not a grievance is arbitrable, it shall be submitted to the arbitrator for determination. The arbitrator will first rule whether or not the subject is arbitrable hereunder and, if so, then he shall rule on the grievance. (75)

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A few contracts permitted the arbitrator the option of hearing the question of arbitrability first, or at the same time he heard the case.

> If either party shall claim before the arbitrator that a particular grievance fails to meet the tests of arbitrability, as the same are set forth in this article, the arbitrator shall proceed to decide such issue before proceeding to hear the case upon the merits. The arbitrator shall have the authority to determine whether he will hear the case on its merits at the same hearing in which the jurisdictional question is presented. (76)

While most contracts provided for use of the same arbitrator or board to determine arbitrability and the unsettled dispute, a few exceptions were found, requiring different arbitrators.

> The issue for arbitration shall be determined by agreement between the parties, but in case of failure of the parties to agree upon the existence of an issue, a board of arbitration may determine the question whether there is any issue involving the interpretation and application of provisions of this contract, and if it finds that there is any such issue, it shall then define such issue for hearing by a board of arbitration on the merit. The same impartial person shall not serve both on the board which determines the question of arbitrability and on the board which hears the same case on the merits, unless both parties agree that he may do so. However, in case of such agreement, the board of arbitration shall, nevertheless, first determine the question of arbitrability and define the issue as above set forth before preceeding to the hearing on the merits. (77)

One of these clauses provided for submission of the question of arbitrability by mutual agreement of the parties.

> If a question is raised concerning the arbitrability under the agreement of the issue sought to be arbitrated, and such question is not otherwise decided, the parties by mutual agreement may submit this issue alone to an arbitrator selected as provided above, and his decision on such issue shall be final and binding. If in favor of arbitrability, such decision shall be followed by a hearing on the merits of the issue as soon as another arbitrator can be selected and a hearing arranged. The fact that a claim or dispute has been handled by the company under the grievance procedure shall not preclude the company from raising the question of arbitrability with respect to such claim or dispute. (78)

Another contract prohibited either party from refusing to proceed to arbitration because the question of arbitrability had been raised.

> If a question of the arbitrability of an issue is raised by either party, such question shall be determined in the first instance by the arbitrator or board. Neither party to this agreement shall refuse to proceed to arbitration upon the grounds that the matter in question is not arbitrable. (79)

While most clauses specified that if either party challenged arbitrability, or if a dispute arose, the question would be arbitrated, a variation illustrated in the following excerpt provided only for the company to raise this question.

> Before the submission of a grievance or dispute to arbitration, the company and the union shall set forth in writing specifically the issue to be submitted to arbitration, . . .
>
> In the event that the company takes the position that a certain matter is not arbitrable, the question of arbitrability shall be submitted to arbitration together with the dispute on the merits of the matter before the same arbitration board. (80)

Significant exceptions to the practice of referring questions of arbitrability to an arbitrator were found in a few contracts, including the General Electric contracts with IUE and UE. Under these contracts, if either party questioned

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the arbitrability of an issue, arbitration was permitted only after a court determined that the issue was arbitrable and directed arbitration.[17]

> In the event the receiving party has asserted that the dispute contained in a request for arbitration is not arbitrable, the association shall have authority to process the request for arbitration and appoint an arbitrator in accordance with the procedure set forth in section__ above only after a final judgment of a court has determined that the grievance upon which arbitration has been requested raises arbitrable issues and has directed arbitration of such issues. The foregoing part of this section shall not be applicable if the request for arbitration involves only relief from a disciplinary penalty or discharge alleged to have been imposed without just cause.
>
> In the consideration and decision of any question involving arbitrability (including any application to a court for an order directing arbitration), it is the specific agreement of the parties that:
>
> Some types of grievance disputes which may arise during the term of this agreement shall be subject to arbitration as a matter of right, enforceable in court, at the demand of either party. (See section__ below.)
>
> Other types of disputes shall be subject only to voluntary arbitration, i.e., can be arbitrated only if both parties agree in writing, in the case of each dispute, to do so. (56)

---

[17] In two of the Steelworkers Trilogy cases, the U.S. Supreme Court laid down two broad rules on the question of arbitrability:

"The function of the court is very limited when the parties have agreed to submit all questions of contract interpretation to the arbitrator. It is then confined to ascertaining whether the party seeking arbitration is making a claim which on its face is governed by the contract. Whether the moving party is right or wrong is a question of contract interpretation for the arbitrator. In these circumstances the moving party should not be deprived of the arbitrator's judgment, when it was his judgment and all that it connotes that was bargained for." (United Steelworkers v. American Manufacturing Co., U.S. Sup. Ct., June 20, 1960).

"An order to arbitrate the particular grievance should not be denied unless it may be said with positive assurance that the arbitration clause is not susceptible to an interpretation that covers the asserted dispute. Doubts should be resolved in favor of coverage." (United Steelworkers v. Warrior and Gulf Navigation Co., U.S. Sup. Ct., June 20, 1960).

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Chapter III. Referral to Arbitration

Just as the movement of a grievance from one step in the grievance procedure to the next calls for a decision on the part of the aggrieved party as to whether it is worthwhile to continue the case, the referral of a grievance dispute to arbitration requires a decision. Since arbitration is a costly and time-consuming process, each of the parties will consider the stakes involved and their chance of winning. Other factors may also be considered—e.g., union leaders responding to internal union politics; top management officials unwilling to take upon themselves the reversal of supervisors' decisions made down the grievance line. Where management may enter a grievance into a grievance procedure, as in many multiemployer bargaining arrangements, management may be the unsatisfied party seeking arbitration.

The process of referring disputes to arbitration is discussed in this chapter. Before the process of arbitration begins, the arbitrator may have an opportunity to mediate the dispute, and agreement clauses referring to this function also are discussed.

Bringing Disputes to the Arbitrator

Approximately 90 percent (1,445) of the 1,609 contracts permitted either party to refer unsettled disputes to arbitration. The remaining 164 contracts provided for initiation of arbitration by the aggrieved party, by the union, or only by mutual consent of the parties. The requirement of mutual consent means that one party can block arbitration. Whether there is a real distinction in practice among the other procedures is doubtful.

	Agreements	Number of workers
All arbitration clauses	1,609	7,172,100
Arbitration invoked by—		
Request of either party	1,445	6,252,750
Aggrieved party	46	149,150
Union	72	445,800
Mutual consent of both parties	46	324,400

Most of the 1,445 contracts explicitly stated that arbitration could be initiated by either party, as in the following:

> If the [grievance] procedure has failed to settle a grievance, . . . it shall, if requested by either party, be submitted to arbitration. (81)

* * *

> Any grievance not settled in step 3 may be subject to arbitration only at the election of either the union or the company, provided notice of intent to arbitrate is given in writing by the party desiring arbitration to the other party within 10 working days from the date of answer in step 3. (82)

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A few agreements simply stated that unsettled disputes would be referred to arbitration, without specifying the procedure.

> . . . the manager of the association and the manager of joint council, or their deputies, shall . . . attempt an adjustment . . . Should they fail to agree, the question or dispute shall be referred to a permanent umpire to be known as the "impartial chairman" in the industry and his decision shall be final and binding upon the parties thereto. (83)
>
> * * *
>
> Any and all matters in dispute, including a dispute concerning the interpretation or application of the arbitration provision, which have not been adjusted pursuant to the procedure therein provided, shall be referred for arbitration and final determination to the impartial chairman therein designated. (84)
>
> * * *
>
> In the event grievances or disputes shall not have been satisfactorily adjusted through the foregoing procedure, the matter shall be submitted to an arbitration board composed of two representatives for the union or unions involved, two representatives for the company, and the fifth representative shall be selected by the four representatives so appointed by the union and the company. (85)

Among variations found in a few of the 1,445 contracts, 1 granted the union the option of submitting any unsettled grievance to arbitration or striking, but permitted the employer to initiate arbitration if no action was taken by the union within a specified time:

> When the grievance procedure has been exhausted and the grievance remains unsettled,
>
> (a) The union may, within a 30-day period following the completion of the third step of the grievance procedure, give the company notice of its intention to strike and exercise the right to strike within this same 30-day period, and only then with the sanction and approval of the international union.
>
> (b) In the event the union fails to exercise the above option within the 30-day period, the company or the union shall have the right to process the grievance to arbitration under the terms of the arbitration provisions below by giving the other party notice within the next 15 days.
>
> (c) Should the union or the company fail to exercise any of the above options within the 45 days following the completion of the third step of the grievance procedure, the grievance shall be considered withdrawn without prejudice. (86)

In one contract the union's option to arbitrate or take other action was limited to grievances over specific issues, such as new job classifications or rates, labor standards, and, in another instance, to issues which "the union considers vital to its existence."

> Article II
>
> Section 2. Special Exception To Pledge. The provisions of section 1 [no-strike, no-lockout] shall not apply in the case of grievances listed in (a) below, when the union has elected to decline arbitration, and where the procedures of this section 2 are observed by the union, except that should any strike be called under this section, it shall not take the form of a sit-down, stay-in, or wildcat strike.
>
> (a) Grievances involving (1) changes in existing labor standards, (2) the establishment of new labor standards, or (3) the establishment of incentive base and hourly rates for new job classifications introduced into the plant, may be appealed through the grievance procedure. . . .
>
> Article VII
>
> . . . the union shall have the option of declining to arbitrate grievances defined in article II, section 2, within 30 calendar days from the date of the written answer in step 4, and may resort to the strike procedure as set forth therein, provided that when the union has elected to arbitrate such grievance, by filing the "Notice of Desire to Arbitrate," this option to resort to such strike procedure shall be foreclosed, with respect to that particular grievance. (87)

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In the following agreement, it would appear that the union had the right to bar arbitration even if an aggrieved employee was insistent on arbitration.

> If a grievance has not been settled satisfactorily in the above steps of the grievance procedure, either party shall have 30 days in which to notify the other party in writing of their intention to submit such grievance to binding arbitration . . .
>
> . . . provided, however, the union shall have the right to withhold submission to arbitration of any grievance which the union considers vital to its existence, in which case the grievance procedure will be considered exhausted and both parties shall have full freedom of action. (88)

Most of the 46 clauses which limited the right of invoking arbitration to the aggrieved party were similar to the following:

> . . . the issue may be submitted in writing for final determination to arbitration by the party aggrieved, within 30 calendar days, to a board of arbitration. (89)

A few of the 46 specified the employee involved or the aggrieved employee, rather than the union. Occasionally, the employee was given the choice of initiating arbitration on his own or through his union.

> In the event the grievance is not settled in step 3, then within, but not later than, 10 calendar days after the company shall have rendered its decision the grievance may be submitted by the employee or employees involved for arbitration. (90)
>
> * * *
>
> Any employee who is not satisfied with the decision on his grievance or complaint at step 5 of the grievance procedure may, individually or through his union grievance representative, file with the impartial arbitrator at any time within 15 days after said decision has been made at step 5, a demand that the impartial arbitrator give his opinion and make his determination with respect to the said grievance or complaint. (91)

The 72 agreements which specified only the union as the referral agent presumably barred management from taking this step, should such an occasion ever arise, but also may be interpreted as barring the aggrieved employee from taking this action on his own.

> If the grievance is not settled satisfactorily in accordance with the foregoing procedure, and involves a question of interpretation or application of the terms of this agreement, the union may refer the matter to arbitration by written notice to the company not later than 10 days after decision in stage 3. (92)
>
> * * *
>
> If the grievance or dispute is not settled as a result of the foregoing, then the union shall have the right to request arbitration thereof . . . (93)
>
> * * *
>
> In the event the grievance shall not have been settled satisfactorily, the matter may be referred to arbitration for final and binding determination, provided referral of the grievance to arbitration shall have been reviewed by the district director of the international union under whose jurisdiction the plant involved is located. If the union decides to arbitrate it will make its appeal in writing as promptly as possible, but in no case more than 30 days after the receipt of the company's 4th step answer . . . (94)

Nearly all of the 46 contracts which required consent of both parties to invoke arbitration covered all grievances or those involving interpretation and application of the agreement.

> In the event of the inability of the employer and the union to reach an agreement on any issue or issues in dispute as aforesaid, the disputed issue or issues may be referred to arbitration if both the employer and the union so agree, but only if both so agree. (95)
>
> * * *

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> Any grievance involving a layoff, a discharge, or the interpretation of any provision of this agreement which has not been satisfactorily settled under the grievance procedure above provided, may, with the written consent of the bargaining committees representing the union and the company, be submitted to an arbitrator or a board of arbitration. In the event a disagreement exists as to whether or not an issue will be arbitrated, the president of the company or his appointee together with the regional director of the union or his appointee shall determine whether or not the issue shall be arbitrated. (96)

In a few of the contracts, however, mutual consent was not required for disputes involving disciplinary action, permitting either party to initiate arbitration of such disputes. For example:

> Any grievance which clearly protests a disciplinary penalty or discharge of an employee covered by this agreement and who is not a probationary employee, and which remains unsettled after the procedures outlined in preceding provisions of this article have been exhausted, shall be submitted to arbitration upon the written request of the union or the corporation, subject, however, to the following terms, conditions and exceptions. . . .
>
> The grievance must allege that, and the arbitrator's authority shall be limited to determining whether, the discipline or discharge of an employee within the bargaining unit was imposed without just cause. The union and the corporation hereby specifically agree that all other grievance issues are excluded from demand arbitration, and may be arbitrated only upon the mutual consent in writing of the union and the corporation.
>
> . . . It is the intention of the parties that only those [disciplinary] disputes which clearly come within these arbitration provisions shall be arbitrable. No other subject, direct or collateral, shall be arbitrable except by a mutual written agreement signed by the corporation and the union . . . (97)

In addition of these contracts permitting arbitration only by mutual consent of the parties, some of the 348 contracts referred to earlier, which excluded one or more specific issues from arbitration, permitted arbitration of these issues by mutual consent.

Time Limits on Referral to Arbitration

Agreements frequently imposed time limits during which a grievance had to be taken to arbitration. Such provisions imply a waiver of the right to appeal, and in effect mean acceptance of the final grievance decision, if no appeal is initiated within the specified time. Many of the agreements included a specific statement to this effect, as illustrated below:

> If the grievance is not settled and if appeal to arbitration is not taken within 30 days after the grievance was originally made, the grievance shall be deemed to have been settled. (98)
>
> * * *
>
> If arbitration is not requested as above provided for within the time limits therein stated, it will be understood that the grievance or dispute no longer exists. (99)
>
> * * *
>
> . . . If such grievance is not submitted to arbitration within said 30 days, the grievance shall be considered settled on the basis of the final decision rendered to the aggrieved party. (100)

The most common practice was to establish the time limit from the date of the final grievance decision, or of the completion of the last step in the grievance procedure:

> Either party to this agreement, shall have the right, within 10 days (excluding Saturdays, Sundays, and holidays) after the answer under step 2 of the grievance procedure as herein provided for, to refer to arbitration any grievance, difference or dispute which is the subject of the grievance procedure. (101)
>
> * * *

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Article XV

Arbitration

Any grievance which remains unsettled after having been fully processed pursuant to the provisions of article—[grievance procedure] . . .

. . . may be submitted to arbitration upon written request of either the union or the company, provided such request is made within 60 days after the final decision of the company has been given to the union pursuant to article—, section—. (56)

* * *

. . . either party desiring arbitration shall notify the other thereof in writing, stating the question, within 21 days after failure to adjust the grievance in the final step . . . (51)

* * *

. . . it [the grievance] may be appealed by giving notice in writing to the company, within 30 days after the date of the meeting at which discussion of such grievance under step 4 [last step] shall have been completed, or within 20 days after a draft of the minutes of such meeting shall first have been received by a representative of the union, whichever of those periods shall last expire, to an impartial umpire . . . (68)

Other agreements set the time limit from the date the grievance was initially presented for adjustment:

There shall be no arbitration of any dispute, difference, or grievance unless either the company or the union issues a written demand for arbitration to the other party within 30 calendar days of the date the grievance was first presented in writing. (34)

One qualified this time limit as follows:

No demand for arbitration of any matter shall be made more than 150 days after the matter was first presented to the company for adjustment, but if there is a relevant shorter time limitation provided in this agreement, such shorter limit shall apply. (102)

Time limits for referral to arbitration ranged from a few days to several months, and, in rare instances, to 1 year; from 1 to 4 weeks, however, was the most frequently specified time limit. Some agreements provided different time limits for specific issues. Mainly, these covered grievances over discharge and discipline, or other matters involving retroactive adjustments, for which shorter time limits, ranging from 3 to 10 days, were specified:

If a grievance remains unadjusted after the final step provided in the grievance procedure, either party has the right to appeal to an arbitration panel within 30 days following the written disposition of the grievance rendered in accordance with paragraph—, except that cases involving retroactive adjustments and/or discharge or disciplinary action shall be appealed within 10 days. (103)

Mediation by the Arbitrator

One of the recurring subjects of discussion among arbitrators is whether they should attempt mediation. Whatever importance some arbitrators may lend to prearbitration mediation, agreements conspicuously avoid this issue.[18] Of the 416 contracts examined in detail (chapter I) none specifically required the arbitrator to attempt mediation, and only a few expressly permitted mediation.

[18] For mediation of grievance disputes prior to submittal to arbitration, see BLS Bulletin 1425-1, pp. 52–54.

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In the following example, the impartial chairman of a tripartite board was permitted to assist the partisan members in resolving questions.

> The union and corporation representatives of the appeal board shall attempt to settle all grievance properly referred to the board.
>
> In the event they are unable to settle the matter, it shall be determined by decision of the impartial chairman and not by majority vote of the board. The impartial chairman shall have the right, however, to participate in all discussions and meetings of the appeal board and shall also have the duty of assisting the parties in resolving particular questions. (104)

An example of a contract specifically permitting the arbitrator to attempt mediation prior to arbitration follows:

> The arbitrator shall decide the matter presented to him, . . . Provided, however, the reference to arbitration shall not prevent the arbitrator from attempting to conciliate the difference between the parties. (105)

A sufficient number of disputes are withdrawn from arbitration prior to a hearing or decision to suggest that arbitrators do, in practice, either attempt direct mediation or achieve it in a roundabout way.[19] The agreements offer no clues as to why the parties are reluctant to call upon their arbitrators to attempt mediation, since an unsuccessful attempt would not bar arbitration.

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[19] See The Arbitration of Labor-Management Grievances, Bethlehem Steel Company and United Steelworkers of America, 1942–52 (BLS Bulletin 1159).

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Chapter IV. The Arbitration Agency

Arbitration is a service to the parties involved in a dispute and they must decide what kind of arbitration agency and arbitrator they want. Where arbitration is an infrequent occurrence and the parties are inexperienced in choosing arbitrators, organizations such as the Federal Mediation and Conciliation Service and the American Arbitration Association are available for assistance, even including the selection of the arbitrator. Agreements tended to be fairly explicit on the nature of the arbitration agency and the method of selection, but a substantial proportion did not take advance precautions against a deadlock over the selection of an arbitrator, thus opening the possibility of one dispute compounding another.

The parties to the disputes—union and management—bear the costs of arbitration, typically sharing them on an equal basis. How agreements handle the matter of costs also is examined in this chapter.

Type of Arbitration Agency

Arbitration was to be conducted by a single impartial arbitrator in over one-half (858) of the 1,609 contracts; and by a tripartite board in over two-fifths (670) (table 5). The parties were allowed the option of using either a single arbitrator or a board in 42 contracts. In 26 contracts, provision was made for use of a single arbitrator for certain issues and a board for others. The remaining 13 contracts either did not indicate the type of agency or provided for local plant negotiation.

The arbitration agency, whether a single arbitrator or tripartite board, was to be selected on an ad hoc (temporary) basis in over four-fifths (1,348) of the contracts. Under these arrangements, selection must be made each time a dispute is referred to arbitration. Worker coverage under ad hoc arrangements was greatest in contracts negotiated by single plant employers, accounting for 85 percent of the employees in this group. There was only a slight difference in worker coverage under multiplant-single employer contracts (67 percent of the employees) and in multiemployer contracts (71 percent).

Permanent, rather than ad hoc, arbitration machinery was provided in 222 contracts. Under these arrangements, the arbitrators or boards hear all disputes arising during their term of office. In terms of worker coverage, permanent arbitration was most predominant in multiplant contracts of single employers (31 percent of the workers), and in multiemployer contracts (22 percent). Such arrangements in single plant contracts accounted for only 13 percent of the workers.

The largest concentration of workers under permanent arbitration was in association contracts in the apparel industry and in multiplant contracts in the transportation equipment industry. In apparel, nearly two-thirds of the employees were covered by permanent arrangements established in three-quarters of the contracts; all but one specified a single arbitrator. In transportation equipment, over one-half of the workers were under permanent arrangements, all of which also specified a single arbitrator; these provisions were established in a relatively small number of contracts but they covered large numbers of workers. Other industries in which permanent arbitration was prevalent included primary metals, machinery, hotels and restaurants, and services.

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Table 5. Type of Arbitration Machinery Specified in Major Collective Bargaining Agreements by Industry, 1961–62

(Workers in thousands)

Industry	Number with grievance arbitration provisions		Single arbitrator			
			Permanent		Temporary (ad hoc)	
	Agreements	Workers	Agreements	Workers	Agreements	Workers
All industries	1,609	7,172.1	175	1,444.6	683	3,056.3
Manufacturing	988	4,216.6	134	1,191.0	477	1,708.9
Ordnance and accessories	19	66.5	3	10.3	11	47.7
Food and kindred products	116	354.4	8	32.5	48	149.5
Tobacco manufactures	7	14.6	-	-	3	4.4
Textile mill products	31	81.2	7	22.6	8	29.9
Apparel and other finished products	53	456.2	40	293.6	7	14.0
Lumber and wood products, except furniture	8	16.5	-	-	4	5.8
Furniture and fixtures	18	31.8	2	3.2	6	10.6
Paper and allied products	56	124.7	4	9.3	24	56.4
Printing, publishing, and allied industries	34	70.8	2	2.6	15	36.3
Chemicals and allied products	53	102.0	4	12.9	23	38.2
Petroleum refining and related industries	15	49.2	-	-	5	12.6
Rubber and miscellaneous plastics products	29	126.2	3	8.6	16	66.6
Leather and leather products	19	66.9	7	20.6	6	33.5
Stone, clay, and glass products	40	109.1	-	-	26	76.1
Primary metal industries	99	600.5	8	16.3	66	305.8
Fabricated metal products	50	137.6	7	43.9	27	55.0
Machinery, except electrical	98	294.8	9	102.2	54	119.6
Electrical machinery, equipment, and supplies	100	413.6	10	17.6	49	263.8
Transportation equipment	108	1,025.1	18	586.5	57	330.6
Instruments and related products	24	53.5	1	7.0	14	35.2
Miscellaneous manufacturing industries	11	21.9	1	1.5	8	17.8
Nonmanufacturing	621	2,955.6	41	253.7	206	1,347.4
Mining; crude petroleum and natural gas production	18	237.8	3	4.6	9	219.7
Transportation [1]	113	678.3	14	109.0	33	352.5
Communications	77	481.4	1	1.5	35	286.1
Utilities: Electric and gas	77	192.8	-	-	14	38.0
Wholesale trade	13	25.2	-	-	1	1.5
Retail trade	103	284.6	3	6.4	42	114.1
Hotels and restaurants	34	163.2	7	60.1	9	45.5
Services	47	169.5	9	54.1	13	21.5
Construction	139	722.9	4	18.1	50	268.7
Miscellaneous nonmanufacturing industries	-	-	-	-	-	-

See footnote at end of table.

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Table 5. Type of Arbitration Machinery Specified in Major Collective Bargaining Agreements by Industry, 1961–62—Continued

(Workers in thousands)

Industry	Board of arbitrators						Single or board [3]		Other [4]	
	Permanent [2]		Temporary (ad hoc)		Board members permanent; chairman (ad hoc)					
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
All industries	47	340.5	550	1,636.0	73	258.5	68	221.0	13	215.4
Manufacturing	24	245.7	276	666.0	22	44.3	46	172.1	9	188.8
Ordnance and accessories	-	-	4	6.6	-	-	1	1.9	-	-
Food and kindred products	4	13.4	45	137.9	4	4.2	3	9.5	4	7.4
Tobacco manufactures	-	-	3	8.2	1	2.0	-	-	-	-
Textile mill products	-	-	13	20.2	-	-	3	8.5	-	-
Apparel and other finished products	1	7.5	2	4.0	-	-	2	12.1	1	125.0
Lumber and wood products, except furniture	-	-	3	7.8	1	3.0	-	-	-	-
Furniture and fixtures	1	2.0	6	11.8	2	3.2	1	1.0	-	-
Paper and allied products	2	16.4	24	39.5	-	-	2	3.2	-	-
Printing, publishing, and allied industries	4	6.7	8	14.6	4	5.7	1	5.0	-	-
Chemicals and allied products	-	-	21	33.7	1	4.0	4	13.2	-	-
Petroleum refining and related industries	-	-	10	36.6	-	-	-	-	-	-
Rubber and miscellaneous plastics products	1	4.0	6	8.7	-	-	3	38.5	-	-
Leather and leather products	1	3.0	3	6.5	-	-	2	3.4	-	-
Stone, clay, and glass products	1	2.0	13	31.0	-	-	-	-	-	-
Primary metal industries	6	184.9	13	29.8	1	6.9	4	6.0	1	51.0
Fabricated metal products	1	1.1	11	30.4	1	1.8	2	4.2	1	1.2
Machinery, except electrical	2	4.7	24	40.6	-	-	9	27.8	-	-
Electrical machinery, equipment, and supplies	-	-	33	97.0	2	4.2	5	28.1	1	3.0
Transportation equipment	-	-	26	91.4	4	8.4	2	7.2	1	1.2
Instruments and related products	-	-	6	7.6	1	1.0	2	2.7	-	-
Miscellaneous manufacturing industries	-	-	2	2.6	-	-	-	-	-	-
Nonmanufacturing	23	94.8	274	970.1	51	214.2	22	48.9	4	26.6
Mining; crude petroleum and natural gas production	-	-	2	2.8	1	1.2	3	9.7	-	-
Transportation [1]	5	18.3	42	122.1	13	57.0	5	9.6	1	10.0
Communications	-	-	39	191.5	-	-	2	2.4	-	-
Utilities: Electric and gas	1	1.0	59	150.3	2	2.2	1	1.4	-	-
Wholesale trade	1	4.2	9	13.3	2	6.2	-	-	-	-
Retail trade	1	4.7	49	137.4	2	3.8	6	18.2	-	-
Hotels and restaurants	2	6.8	10	37.2	6	13.7	-	-	-	-
Services	6	7.3	12	72.2	4	9.0	2	2.5	1	3.0
Construction	7	52.6	52	243.4	21	121.2	3	5.3	2	13.6
Miscellaneous nonmanufacturing industries	-	-	-	-	-	-	-	-	-	-

[1] Excludes railroad and airline industries.

[2] 7 of these agreements did not indicate the type of machinery, and 6 stated that the arbitration machinery was to be determined by negotiation.

[3] Includes 1 agreement which specified a permanent chairman, but ad hoc labor-management representatives.

[4] 42 of these agreements allowed the parties the option of a single arbitrator or a tripartite board, and 26 specified one of these types for regular grievances and the other for disputes over specific technical or health, welfare and pension issues.

NOTE: Because of rounding, sums of individual items may not equal totals.

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In permanent arbitration, provisions for single arbitrators accounted for a large majority of the contracts and of the workers. Of the 222 contracts, 175, covering four-fifths of the workers, specified a single arbitrator; the remaining 47 provided for a tripartite board.

A comparison with contracts in effect in 1952, the date of the Bureau's previous study, indicates a trend toward single ad hoc arbitration, as the tabulation below indicates. In 1952, 51 percent of the contracts with arbitration provided for a board, as against 42 percent in 1961–62, while the use of single arbitrators rose from 42 to 53 percent.

Type of arbitration agency	Percent of contracts	
	1961–62	1952
Ad hoc	85	80
Single arbitrator	42	30
Tripartite board	39	46
Single or board	4	4
Permanent	14	17
Single arbitrator	11	12
Tripartite board	3	5
Other	1	3

Selection of the Arbitrator

Various methods were outlined for selection of the arbitrator, either directly by the two parties, or with the assistance of governmental or private agencies or individuals, or, less frequently, by outside agencies only. Although many agreements took the necessary precautions to prevent a deadlock over the selection of the arbitrator, at least half did not.

Most agreements indicated that some help would be sought from outside agencies (chiefly the Federal Mediation and Conciliation Service or the American Arbitration Association) in the selection of arbitrators, and in a substantial proportion of agreements the selection was to be made or could be made by the outside agency. Of 416 agreements examined in detail, 30 percent made no reference to outside assistance; these were typically large agreements in such industries as apparel, transportation equipment, primary metals, and transportation where considerable experience with arbitration had been accumulated. In about a fourth of the agreements, a list of suitable arbitrators was to be requested from outside agencies, in most cases only if the parties could not reach a decision on their own. A few of these agreements provided for the submission of more than one list, or for final selection by the outside agency if the parties could not agree. Provision for breaking a deadlock over the selection of the arbitrator was incorporated into almost 30 percent of the agreements, while slightly more than 10 percent relied in the first instance on the outside agency to select. A few contracts merely provided for selection in accordance with American Arbitration Association (AAA) rules. In general, these rules require submission of an identical list to each of the parties, with the final appointment made by the AAA from the names approved by each party, in order of preference.[20]

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[20] See appendix B for AAA Voluntary Labor Arbitration Rules and FMCS Procedures.

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In five contracts, the manner of selection either varied by plant, or permitted the parties the choice of selecting the arbitrator or asking the AAA to do so. Another agreement did not spell out the method of selection.

Method of selection	Agreements	Workers (in thousands)
Number studied	416	2,600.1
Company and union select:		
No outside participation	125	1,357.3
From list submitted by outside agency	21	158.0
If unable to agree:		
Select from list submitted by outside agency	89	467.2
Outside agency selects	120	460.0
Outside agency selects	48	116.9
In accordance with AAA rules	7	13.8
Other	6	27.0

NOTE: Because of rounding, sums of individual items may not equal totals.

Clauses illustrating methods of selection are included in subsequent sections of this chapter, dealing with specific types of arbitration machinery.

Provisions designating the Federal Mediation and Conciliation Service or the American Arbitration Association as the participating outside agencies were most predominant, each accounting for over two-fifths of the contracts providing for outside participation (table 6). The FMCS was specified more frequently where arrangements called for submission of a panel for selection if the parties were unable to agree on a choice. The AAA was specified more frequently where the outside agency made the selection in event of disagreement. A few agreements permitted the parties to select either the FMCS or AAA; a few others permitted a choice of FMCS or a State mediation agency.

Outside participants other than FMCS or AAA included State or city mediation agencies, a Federal or State judge, and the Secretary of Labor.

Selecting a Temporary (Ad Hoc) Arbitrator

Provisions for use of a single arbitrator appointed for each case were found in 42 percent of the 1,609 contracts, accounting for a similar proportion of workers.

Direct Selection by the Parties. Agreements which gave the parties complete responsibility for the selection of an ad hoc single arbitrator, with no provision for outside participation in event of a deadlock, usually did not include a detailed procedure for selection. The following are typical examples of such clauses:

> . . . an arbitrator shall be selected by the union and the employer involved, who is acceptable to both sides, not later than 15 days after the difference arises. (106)
>
> * * *
>
> In the event the /grievance/ board fails to settle the grievance in step 3, either party may, upon written notice to the other, request that the grievance be submitted to arbitration. The arbitration case shall be handled by an arbitrator mutually selected by the company and the union. (107)

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Table 6. Selection of Arbitrator and Agency Specified in Selected Major Collective Bargaining Agreements, 1961–62

(Workers in thousands)

Method of selecting the arbitrator	Total		AAA		FMCS		Public agencies other than FMCS [1]		2 agencies or more [2]		Others [3]	
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
Number studied	416	2,600.1										
Participation by outside agency or party	291	1,242.8	124	488.9	125	442.9	31	265.9	9	27.2	2	18.0
Arbitrator selected by:												
Company and union	230	1,085.2	86	387.8	112	411.2	25	246.0	6	23.4	1	17.0
From a list submitted by an outside agency	21	158.0	12	118.3	8	29.7	1	10.0	-	-	-	-
If unable to agree on arbitrator, from list submitted by outside agency [4]	89	467.2	18	47.8	65	224.9	5	193.3	1	1.3	-	
If unable to agree on arbitrator, outside agency selects	120	460.0	56	221.7	39	156.6	19	42.7	5	22.1	1	17.0
Outside agency or party	48	116.9	29	65.2	12	30.5	6	20.0	1	1.2	-	-
In accordance with AAA rules	7	13.8	7	13.8	-	-	-	-	-	-	-	-
Other [5]	6	27.0	2	22.2	1	1.2	-	-	2	2.6	1	1.0
No outside agency specified—company and union select arbitrator [6]	125	1,357.3	-	-	-	-	-	-	-	-	-	-

[1] Includes 20 agreements which specified a State or city mediation agency; 10 which specified a Federal or State judge; and 1 which named the Secretary of Labor.

[2] Includes 5 agreements which named the FMCS and AAA; and 4 which named the FMCS and a State mediation agency.

[3] 1 agreement with several permanent arbitrators named a private individual to select a replacement if the company and union were unable to agree in event of a vacancy; the other agreement was not clear.

[4] Includes 4 agreements which provided for selection by the outside agency if the parties were unable to agree after requesting a list.

[5] Includes 1 agreement in which method of selection was not clear; 2 which varied in different plants; and 3 which permitted the company and union to either select the arbitrator or call upon an outside agency.

[6] Includes 7 agreements which did not mention how the arbitrator was selected.

NOTE: Because of rounding, sums of individual items may not equal totals.

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A few contracts varied this procedure by listing in the contract a panel of mutually agreed upon arbitrators from which the parties were to make a choice. Usually five or seven names were listed. Selection by the parties from the panel, without any prior attempt to agree on a choice, was indicated in some instances:

> Messrs. /names of five individuals/ are hereby appointed as a panel of arbitrators . . . who shall be chosen . . . as follows: Each party may strike two names from the panel and the remaining arbitrator shall serve in the case. (44)

In the others, the panel was to be used only if the parties failed to agree on designating an arbitrator:

> In the event the parties are unable to agree upon an arbitrator, he shall be selected by a lot from among the following: Messrs. /names of five individuals/. (108)

Outside Participation. Provisions for outside participation either called for submission of a panel from which the parties were to make the selection, or for direct appointment by the designated agency.

A number of agreements provided for submission of more than one list in the event the parties could not agree on a selection from the first panel:

> The parties shall jointly request the American Arbitration Association and the Federal Mediation and Conciliation Service to furnish lists of available arbitrators.
>
> After receipt of such lists and an opportunity to consider the names thereon the parties, . . . /shall/ determine which of such mutually acceptable arbitrators shall be deemed to be named.
>
> If the foregoing does not result in a designation of a mutually acceptable arbitrator the procedure shall be repeated with respect to additional lists until such a designation results. (109)

Others provided for appointment of the arbitrator by the outside agency if the parties were unable to agree on a selection from the list submitted:

> The selection of an arbitrator shall be made from a panel or panels, not exceeding three, submitted by the Federal Mediation and Conciliation Service upon request by either the company or the union. If the company and the union fail to agree on an arbitrator, the selection shall be made by the Federal Mediation and Conciliation Service. (110)

The most predominant type of arrangement for outside participation called for assistance only in the event the parties were unable to agree on their own. Either the AAA or the FMCS was the designated agency in nearly all of these agreements. Provisions for submission of a panel more frequently designated the FMCS; those requesting the agency to appoint the arbitrator specified the AAA more often.

> Should the . . . /labor management grievance committee/ fail to reach agreement on the matter in dispute . . . they shall select a disinterested third party to act as arbitrator.
>
> In the event the committee fails to agree on an /arbitrator/ . . . the Director of the Federal Mediation and Conciliation Service shall be called upon to provide a panel of seven experienced arbitrators . . . and each party shall alternately strike a name from the panel until one remains. The person whose name remains shall serve as the arbitrator. (111)
>
> * * *
>
> In the event the grievance has not been settled in the third step, the matter may then be appealed to an impartial umpire to be appointed by mutual agreement of the parties hereto.
>
> In the event no agreement on the choice of an umpire can be reached, then after a 10-day period, the American Arbitration Association shall be requested to appoint the umpire. (112)

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A few of the agreements specified selection under the AAA procedure, if the parties could not agree on an arbitrator. One of these outlined a unique method of attempting selection before requesting AAA participation.

> The union shall submit a list of five names to the company from which the company will endeavor to make a selection; failing, within 5 days the company shall submit to the union a list of five names from which the union will endeavor to make a selection; failing, either party may request the American Arbitration Association to use the procedure then in effect in their department to make a selection for the arbitration of such case or cases. (113)

State mediation agencies or public officials were designated in a few other contracts. One of these varied the procedure by requesting the parties to attempt to select an agency or person to appoint the arbitrator if they could not agree on a choice. If they still could not agree, a judge was designated, either to appoint an arbitrator or to act as one:

> If the parties do not agree upon an arbitrator within 5 days after a request for his appointment, the arbitrator shall be appointed by an agency or person agreeable to the parties at that time. If no agreement can be reached, an arbitrator shall be appointed by the senior judge of the United States District Court at Chicago, Illinois, or he may act as such arbitrator. (114)

Provisions for outside participation at the time arbitration is requested, without any initial attempt by the parties to select an arbitrator, usually followed the same pattern as those discussed in the preceding paragraphs. In nearly all cases, the outside agency either was to submit a panel for selection by the parties or appoint an arbitrator directly:

> The arbitrator will be selected from the panel submitted by the American Arbitration Association. (2)
>
> * * *
>
> Should the employer and the union be unable to determine the dispute within 24 hours, then and in that event, either party to said dispute may request the appointment of an arbitrator by the Director of the Federal Mediation and Conciliation Service, . . . (115)
>
> * * *
>
> All disputable controversies between the parties, . . . unless amicably adjusted . . . shall be referred to an arbitrator to be designated by the New York State Board of Mediation for arbitration. (116)

A few agreements specified selection according to AAA rules:

> In each case submitted to arbitration . . . the arbitrator /shall be/ selected as provided in section 26 . . .
>
> Section 26
>
> . . . arbitration shall be conducted by a single arbitrator who shall be selected . . . in accordance with the then current Voluntary Labor Arbitration Rules of the American Arbitration Association . . .
>
> . . . The charging party shall give notice to the /employer association/ who shall make application to the AAA for a panel of available arbitrators from which an arbitrator for the case involved shall be promptly selected by the parties in the case by the procedures of said association . . . (117)

A few others granted the parties the option of appointing an arbitrator or requesting an outside agency to designate one:

> . . . the matter in dispute shall be referred to an arbitrator selected by the committee or someone designated by this committee to make the selection. (118)

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Another small group of contracts merely stated that the disputed issue would be referred to a designated outside agency for arbitration:

> If the joint grievance board /last step of grievance procedure/ fails to act within 7 days, the matter shall be referred to the American Arbitration Association, and its decision shall be final and binding on both parties. A decision must be rendered by the American Arbitration Association within 7 days after the last hearing. Any expense involved in an arbitration so conducted shall be borne jointly by the parties. (119)

Selecting an Ad Hoc Board of Arbitration

Provisions for an ad hoc arbitration board were specified in 39 percent of the 1,609 contracts, covering 26 percent of the workers.

The most common type of board was composed of an equal number of management and union representatives, with an impartial member acting as chairman. Relatively few contracts specified a board composed entirely of nonpartisan members, that is, persons who were not company or union officials. Frequently the board consisted of three members. However, a number of contracts specified five or seven members, and a few specified more.

Partisan members selected by management generally were required to be officials or employees of the company. Those to be selected by the union were usually employee union members or nonemployee union officials.

> The arbitration panel shall be composed of:
>
> (1) One representative of the union, to be a member of the union in the employ of the company or an international representative;
> (2) One representative of the company, to be an executive of the company; and
> (3) An impartial chairman mutually selected. (73)

A number of agreements did not require union representatives to be company employees or union officials; rather, the choice was left to the union.

> . . . either party, . . . may refer the matter to a tripartite arbitration panel consisting of one representative chosen by and from management, one representative chosen by and from the union, and a third mutually acceptable impartial arbitrator. (4)
>
> * * *
>
> In the event a settlement is not reached . . . an arbitration committee shall be established . . . consisting of one representative appointed by the union and one representative appointed by the company. The persons so appointed shall, . . . select an impartial person as the third arbitrator. (120)

A common practice where arbitration boards included partisan members was for the union and management representatives to attempt to settle the disputed issue before calling in an impartial chairman to form a tripartite board. Thus, the partisan representatives, in effect, served as grievance negotiators in another step of the grievance procedure, after arbitration had been requested.

> Within 7 days from the date the matter has been referred to arbitration three persons shall be selected by the company and three by the union, who shall promptly meet and endeavor to settle the matter, and in the event the six so selected cannot agree within 15 days on all matters referred to them, a wholly disinterested person shall be chosen by them as the seventh member and chairman of the arbitration board. (121)

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Included in the 623 contracts providing for an ad hoc board were 73 which required selection of a temporary chairman for each case, although the partisan members served permanently. The permanent partisan members also served as a joint grievance adjustment board; an ad hoc chairman was appointed only if the partisan members were unable to settle the dispute:

> The board of arbitration shall consist of the president of the international union or his representative and the personnel director or his representative. If they are unable to dispose of the grievance within 3 days then the director of the Federal Mediation and Conciliation Service will be asked to designate an impartial chairman. (66)
>
> * * *
>
> There is hereby established a joint adjustment board, to be composed of four representatives of the contractors and four representatives of the union . . . Each of the parties shall, within 10 days after the execution of this agreement, appoint its representatives and immediately notify the other party . . . The joint adjustment board shall meet and act upon such matters referred to it, . . . but in no event later than 5 working days after referral . . . In the event no decision can be reached within 3 working days, or if either party disagrees with the decision made, the joint adjustment board may within 2 working days, select a ninth person to act as impartial chairman by requesting the FMCS to furnish the names of five persons qualified to act as impartial chairman . . . (122)

Most of the contracts provided for selection of the impartial chairman by the union and management members. In the event of failure to agree on a choice, usually either party could request an outside agency to appoint an impartial chairman, or to submit a panel of names for selection by the parties:

> . . . In the event the arbitration board is unable to agree on the selection of the seventh member and chairman within 10 days from the date they determine they cannot agree on any matters referred to them, then either party or both parties may call on the director of the Federal Mediation and Conciliation Service at Washington, D.C., for the submission of a panel to be used for selection and appointment of the seventh member and chairman of the arbitration board. (121)
>
> * * *
>
> In the event the arbitrators for the company and the union fail to agree on the third arbitrator, the director of the Federal Mediation and Conciliation Service, upon the written request of either party, shall select an impartial third arbitrator. (123)

Procedure for selection from the panel was outlined in some contracts, as in the following:

> If the union and company representative do not agree on an arbitrator he shall be chosen from a list of nine arbitrators proposed by the American Arbitration Association. The union and company are to alternately strike one name from the list until only one name remains. The right to strike the first name shall be determined by lot. Final selection shall be made within 30 days. (4)

A variation, found in a few contracts, provided for participation by either one of two designated agencies, if the parties could not agree on an impartial chairman. The contracts either specified the AAA and the FMCS, or one of these and a State mediation agency. An excerpt from one of these clauses follows:

> The company shall choose one arbitrator and the employees shall choose one arbitrator. The two arbitrators thus chosen shall confer to attempt to settle the disputed issues or in the event they are unable to do so to select a third arbitrator by mutual agreement who shall act as chairman of the board.
>
> If the chairman has not been selected within 1 month from the date upon which they first meet for such purpose, or unless a different time interval is agreed to by the two arbitrators, either arbitrator may request that a list of nine persons to act as chairman be submitted by one of two agencies (the Federal Mediation and Conciliation Service or the American Arbitration Association). The arbitrator not requesting submission of a list shall choose between the two above named agencies in the event the agency is not chosen by mutual agreement. After receipt of such list of nine persons, the two arbitrators shall meet and the chairman shall be selected from the list by a process of alternate striking of names, until only one name remains, the first arbitrator to strike a name being determined by lot. (30)

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Another variation, designed to forestall the union or management from barring arbitration, permitted either party to request an outside agency to designate the opposing party's board member if the appointment was not made within a specified time:

> If either party fails to appoint its panel member within 5 days following written notice of intention to arbitrate, the opposing party's panel member shall have the right to request the New York State Board of Mediation to designate forthwith an impartial chairman.
>
> If either party fails to appoint its panel member within 5 days following written notice of appointment of the opposing panel member, the opposing panel member shall have the right to request the New York State Board of Mediation to designate forthwith a panel member for the party who failed to appoint its panel member. This paragraph is for the purpose of preventing either party from technically barring arbitration.
>
> In the event the party's representatives on the panel fail to agree within 10 days upon the impartial chairman, the New York State Board of Mediation, upon the application of either panel member, shall designate the impartial chairman. (73)

Under the small group of agreements which provided for a board composed entirely of nonpartisan members, management and the union each were to designate an impartial arbitrator. As in the contracts which specified partisan members, the nonpartisan arbitrators usually were required to select the impartial chairman. Such boards generally functioned as three-man boards:

> The complaint shall be referred in writing to a committee of arbitration which shall consist of three disinterested parties, one to be selected by the company, one to be selected by the union, and the third serving as the impartial chairman, to be selected by the two thus selected. (90)

Outside aid in selection of the impartial chairman, without any attempt at selection by the parties, was provided for in some of the 73 contracts which specified permanent partisan members with an ad hoc chairman, as illustrated earlier. A few other contracts also provided for initial outside participation.

Selecting a Permanent Arbitrator

The 175 contracts which provided for a permanent single arbitrator represented 11 percent of the 1,609 contracts with arbitration, and 20 percent of the workers. Selection of the arbitrator was the responsibility of management and the union. Most frequently, the arbitrator was named in the contract:

> /name of individual/ attorney, of Cincinnati, Ohio, is hereby reappointed arbitrator for the life of this agreement, to hear and render decisions on all grievances properly appealed or certified to him . . . (124)

In others, provision was made for selection by the parties at a later date:

> Within a reasonable time of the date hereof the parties shall appoint an umpire to serve for the duration of this agreement . . . (125)

Outside participation in the selection was sometimes provided for in event of a deadlock:

> There shall at all times be a contract arbitrator . . . Such arbitrator . . . shall be chosen by the union and /the management association/, or if they are unable to agree, by the then chairman of the New York State Board of Mediation, after consultation with the representatives of the parties. (126)

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While most permanent arbitrators were appointed for the duration of the contract, a few specified shorter periods, and in some instances the arbitrator was subject to removal by either party, upon proper notification, as in the following:

> Immediately after the execution of this agreement, the parties hereto, shall meet to select an impartial chairman who shall serve to March 31, 1964 /1 year/ and whose term may be extended for the duration of the agreement /2-year agreement/ by mutual consent of the parties . . . (127)

* * *

> The parties agree to the selection of /name of individual/ who shall serve as a permanent arbitrator during the duration of this agreement, subject, however, to his removal by death, resignation, or his removal by either party. In the event either party desires to remove the arbitrator, that party shall notify the other party and the arbitrator, in writing, of its decision, and such notification shall constitute removal. (128)

To insure continuity in the event an arbitrator was removed, resigned, or was unable or unwilling to serve for other reasons, a number of contracts either designated one or more alternates or provided for appointment of another arbitrator by the parties:

> The arbitrator shall be /name of individual/ or /name of individual/ or /name of individual/ in the event /first individual named/ is unable to serve within 15 days after a request for arbitration has been made unless this time is extended by mutual agreement of the parties. (129)

* * *

> If in the opinion of the district director of the union and the division manager of industrial relations a special situation exists which calls for immediate arbitration and the permanent arbitrator is not available, they may request the international union and the company to designate another arbitrator to hear and decide such case in accordance with the provisions of this agreement. (130)

Outside assistance if the parties could not agree on a successor also was provided in a few contracts. The following clause is typical of the procedure used in the apparel industry:

> The parties hereto designated /name of individual/ as impartial chairman /arbitrator/ to act in connection with any complaint, dispute, or grievance arising during the term of this agreement and expressly agree that all hearings of disputes or grievances had before him, or before his successor or successors as hereinafter set forth, shall be held in the City of New York.
>
> Should the impartial chairman resign, refuse to act or be incapable of acting, or should the office become vacant for any reason, the parties hereto shall immediately and within 5 days after the occurrence of such vacancy designate another person to act as such impartial chairman. If they fail to agree, the Mayor of the City of New York shall, on application of either party, summarily make such appointment.
>
> Each member of the association and the locals affiliated with the joint board and the workers engaged in any of the crafts covered by this agreement hereby assents to the appointment of the impartial chairman designated herein and of his successor, if any, selected in the manner above provided. (131)

An interesting variation provided for selection of a new permanent arbitrator by the parties in event of a vacancy, and, in addition, named five substitute arbitrators, one of these to be chosen each time arbitration was requested, until a new permanent arbitrator was appointed:

> In the event the arbitrator is removed by death, resignation, or notification of either party, the parties will endeavor to agree upon a new permanent arbitrator, as in the case of the original permanent arbitrator in this agreement. Until a new permanent arbitrator is selected, the arbitrator for each arbitration hearing shall be selected as follows:
>
> (1) The following named persons shall constitute the panel of arbitrators, hereinafter referred to as the "Panel": /names of five individuals/.

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(2) Within 3 working days from the date of filing the request for arbitration, the union will notify the company, in writing, of the names of three members of the panel, one of which three shall be selected by the company as the arbitrator for the hearing . . .

(3) Within 3 working days from the receipt of the above notification, the company will notify the union, in writing, as to which of the three shall be the arbitrator for the hearing, and the parties shall then promptly jointly notify the arbitrator thus selected of his appointment and shall arrange with him for a prompt hearing.

(4) Under the procedure outlined in (2) and (3) above, the parties shall alternate each time it becomes necessary to select an arbitrator. (128)

Another method used to insure continuity provided for a permanent panel of three or more arbitrators, named in the contract, one of which was to be selected whenever arbitration was requested. The following outlines the procedure for selection:

During the life of this agreement or unless otherwise changed by mutual agreement any of the following three persons shall be acceptable to both the corporation and the international union to function as the impartial umpire /arbitrator/:

/names of three individuals/

Selection of an umpire will be made by mutual agreement from among the above named individuals. In the event of failure to make a selection, the corporation and the international union will each strike the name of one of the individuals and the remaining individual will be automatically selected, except that if each strikes the name of the same individual the umpire shall automatically be the one of the remaining two who is first available. (132)

Selecting a Permanent Arbitration Board

The 47 contracts which specified a permanent arbitration board covered only 5 percent of the 7.2 million workers under the 1,609 contracts. The union and management members, selected by the parties, were often members of a permanent bipartisan adjustment board; the chairman acted only if the adjustment board could not resolve the dispute.

The parties hereto hereby create a joint standing committee which shall consist of two members designated by the union and two members designated by the /employers' association/. Immediately after the effective date hereof, the parties hereto shall, in writing, designate their respective members of the committee and shall have the right, without notice, from time to time to change such designations and/or to designate substitute members.

The joint standing committee shall have full and complete authority, in accordance with the provisions of this section, and any decision when reduced to writing and subscribed to by a majority of the members of the committee shall be binding upon the parties hereto and shall be enforceable as an arbitration award in any court of competent jurisdiction. The joint standing committee shall have no more than 2 weeks after the submission of any matter to the committee to reach a decision with respect to the submitted issue and to take action thereon.

In the event that the joint standing committee is unable to resolve the issue, or fails to act within 2 weeks after submission, the matter shall then be automatically referred to the appeals board which shall consist of the four members of the joint standing committee and a chairman /permanent chairman/ who shall be selected in accordance with the procedure hereinafter set forth. (127)

Some of the contracts provided for selection of the impartial chairman by the union and management members of the board; others provided for selection by the parties:

Arbitration shall be by a tripartite panel which shall consist of one representative of the company and one representative of the union who shall attempt to mutually select an impartial chairman. (133)

* * *

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> Immediately after the execution of this agreement, the parties hereto shall meet to select an impartial chairman . . . In the event that the parties fail to designate an impartial chairman within 21 days after the signing of this agreement, the impartial chairman shall be selected from a list supplied by the American Arbitration Association in accordance with its then controlling rules and regulations governing such selection. (127)

Provision was made for an alternate chairman in a number of the contracts, usually following the same procedure specified for selection or designation of the permanent chairman. Outside participation was provided for in some contracts if the parties were unable to agree on the arbitrator or his alternate.

> In addition to the impartial chairman to be designated as provided in section__ of this agreement, an alternate impartial chairman shall be designated in the same manner /from AAA list if unable to agree on selection/. The alternate impartial chairman shall become the impartial chairman in the event that the incumbent impartial chairman is incapacitated or otherwise unable or unwilling to serve. In the event the alternate impartial chairman so becomes the impartial chairman (except for a period which the parties mutually declare to be a temporary period, e.g.; hospitalization of the incumbent), then the parties at once shall follow the procedures of section__ to name a new alternate impartial chairman. (127)

* * *

> . . . any grievance or question which is arbitrable and which has not been settled shall be submitted . . . to a board of arbitration . . .
>
> The chairman of each board of arbitration appointed during the life of this agreement shall be /name of individual/ or, if he is unable to serve within a 30-day period notice to him as provided below, /name of individual/ . . . (134)

One agreement, which provided for participation by the American Arbitration Association if the parties could not agree on a selection, specified a 6-month appointment and shortened this to 4 months if the AAA made the appointment:

> In the event the representatives of the parties are unable to agree upon an impartial chairman, such impartial chairman shall be selected in accordance with rule IV-12 of the Voluntary Labor Arbitration Rules of the American Arbitration Association. The tripartite panel hereinbefore provided shall continue for a period of 6 months from the effective date of this agreement if the impartial chairman is selected by the parties or 4 months if the impartial chairman is selected by the AAA. . . at the end of such 4- or 6-month period . . . either party will have the right to revoke this agreement by written notice, otherwise said panel shall continue in effect for successive 4- or 6-months periods with a right of revocation by either party at the conclusion of any one, 4- or 6-month period. (133)

The short-term appointment illustrated above was an exception to the general practice of appointing the impartial arbitrator for the duration of the contract. Appointment of the union and management members for the duration generally was expressed or implied, although some contracts reserved to either party the right to change its members from time to time, as follows:

> Within 30 days, or such additional time as may be mutually agreed upon, after the signing of this agreement . . ., the parties shall establish a board of arbitration . . . The board shall be composed of three members: One to be designated by the company, one to be designated by the union, and a third member who shall be mutually agreed upon by the parties within said 30-day period and who shall serve as chairman of the board for the duration of this agreement.
>
> The member of the board designated by the company and the member of the board designated by the union shall serve for the duration of his agreement, subject to the right of the company to change from time to time the member it designated and to the right of the union to change from time to time the member it designated. (135)

Only 1 of the 47 contracts provided for a permanent chairman with ad hoc union-management members, to be selected each time arbitration was requested.

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Single Arbitrator or Board. Under 42 agreements, the parties had the option of designating either a single arbitrator or a tripartite board. A few of these agreements also permitted the parties to determine the tenure of appointment at the time of selection.

> An arbitrator will be selected by the parties for such period of time and upon such financial and other terms as may be agreed upon.
>
> Provided, however, that by local agreement the parties may determine that a grievance or grievances shall be heard by a board of arbitration rather than by a single arbitrator. (24)
>
> * * *
>
> Any matter not satisfactorily settled or resolved . . . hereinabove shall be submitted to arbitration for final determination . . .
>
> The representatives of the union and the representatives of the employer shall meet for the purpose of selecting an impartial arbitrator within 10 days following the demand for arbitration . . .
>
> Should either party desire, a board of arbitration shall be convened in lieu of a single arbitrator, consisting of an equal number of arbitrators appointed by each party (not to exceed two appointed by each) and the impartial arbitrator who shall be chairman. The board shall hear and determine the matter by majority vote of the members of the board. (79)
>
> * * *
>
> Upon written request for arbitration by either party to the other, each party shall promptly appoint two members of the board of arbitration. The members so appointed shall forthwith notify the chairman who shall convene the board of arbitration within a reasonable time thereafter. (134)

Special Arbitration Procedures

Twenty-six agreements provided for separate arbitration machinery for disputes involving technical problems or health, welfare, and pension issues.[21] These either specified a single arbitrator for regular grievances and a board for other issues, or reversed the procedure. A number of others provided special procedures for arbitrating such disputes. Provisions for these specialized cases generally specified that an arbitrator with special training or experience was to be used, or, in the case of an arbitration board, a specially qualified chairman.

Among the technical issues cited for special arbitration were incentive and piece-rate systems, job rates, job evaluation, production standards, and work assignments. Some contracts did not list the issues, merely specifying grievances involving technical problems or those requiring specialized knowledge.

Frequently, where contracts included health, welfare, and pension plans, two types of special machinery were provided—one for technical problems and another for disputes involving administration of the benefit plans. A few contracts permitted the parties either to designate a special arbitrator for technical issues or to employ an impartial expert to assist an arbitrator. Where the question of physical disability was to be resolved, provision often was made for a physician, or a board composed of physicians, to arbitrate the dispute.

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[21] As noted earlier, this analysis does not include plans and procedures set forth in separate documents (i.e., benefit plan booklets).

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These arrangements are illustrated in the following examples:

There shall be three arbitrators, one selected by the union, one selected by the employer, and a third selected by these two arbitrators. Should the two arbitrators fail to agree upon a third arbitrator within 10 days after their appointment, then the third arbitrator shall be appointed by the director of the United States Conciliation Service. The decision of a majority of the arbitrators shall be final and binding. . . .

Where the grievance involves problems requiring the specialized knowledge of an industrial engineer and has been processed under paragraphs __ and __ of step 3 of article __, then there shall be a single arbitrator, who must be a qualified industrial engineer. Such arbitrator shall be selected by the parties, or, if they fail to agree within 10 days of the date upon which written demand for arbitration is received, he shall be appointed by the director of the United States Conciliation Service. (136)

* * *

In case of all issues submitted to arbitration involving work assignments, piece rates, or other problems of a technical nature, the third arbitrator, whether appointed by the arbitrators chosen by the employer and the union respectively or appointed by said director of the Federal Mediation and Conciliation Service as above provided shall be a person with technical knowledge of the textile industry. (137)

* * *

If the grievance involves a question of production standards, incentive rates, the operation of any incentive plan, the duties or wage rate of any job, the arbitrator shall be selected by mutual agreement, and if the parties cannot agree upon the selection of an arbitrator within 10 days the arbitrator will be secured from the American Arbitration Association under its rules and regulations. If the grievance does not involve any of the foregoing questions it shall be submitted to the Connecticut State Board of Mediation and Arbitration. (138)

* * *

Within 10 working days after filing of such demand, the union and the company shall jointly select an impartial arbitrator. If this procedure is not completed within said 10 working days, either party may request the American Arbitration Association or some other mutually agreed upon agent to select the impartial arbitrator under the mutual assistance method of the American Arbitration Association, provided that in the event any grievance involving claimed misapplication of the incentive system, statistical quality control or similar technical subjects is referred to arbitration, the impartial arbitrator selected under the requirements hereinbefore outlined shall be an impartial expert on such technical subjects or shall employ the services and advice of such impartial expert.

There shall be established a board of administration within 30 days after the execution of this agreement which shall consist of six members, three to be appointed by the company (hereinafter referred to as the "company members"), and three, who shall be employees of the company, to be appointed by the union (hereinafter referred to as the "union members"). It shall be the function of this board to administer this agreement. . . .

In case of any dispute arising in the course of the board's administration of this agreement which cannot be settled by a majority vote of the board, the board shall appoint an impartial chairman whose vote shall settle such dispute and whose decision in such dispute shall be final and binding upon the company, the union and any employee involved. In the event of inability of the members of the board to agree upon an impartial chairman within a period of 3 days from the date of dispute, the board shall ask the American Arbitration Association to submit to the board a list of five names. The company members of the board shall first strike two names from the list and the union members shall then strike two names, leaving the remaining name as the person to serve as impartial chairman for that one dispute. . . .

No matter respecting this agreement or any difference arising thereunder except as provided in this agreement shall be subject to the grievance procedure established in the collective bargaining agreement between the company and the union. (139)

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If there is any dispute concerning the interpretation or application of any of the provisions of this agreement, such dispute shall . . . be submitted to arbitration.

The representatives of the company and the union shall meet . . . to select an arbitrator. If they are unable to agree within 5 working days . . ., he shall be selected from a list of not less than five names . . . from the FMCS . . .

Job Evaluation

. . . Such grievances shall be processed under the grievance procedure of this agreement . . . the arbitrator shall be a qualified authority on job evaluation . . . (140)

* * *

All arbitrations shall be conducted by, submitted to and decided by a single arbitrator selected by the parties. The parties hereto shall forthwith select two permanent arbitrators, one for cases involving technical rate-setting questions, and one for all other cases. (141)

* * *

Whenever either party concludes that further step 4 meetings cannot contribute to the settlement of a grievance, such grievances shall be appealed within 20 days after the date of the last step 4 answer and an impartial arbitrator shall be appointed by mutual agreement of the parties hereto, or, failing such agreement, a request shall be initiated by the appealing party to the American Arbitration Association to assist in the selection of an arbitrator in accordance with their established practice within 15 days after the appeal, except as otherwise agreed.

Section IV—Administration

The administration of the pension benefits shall be in charge of the company.

Section V—Appeals Procedure

1. If any difference shall arise between the company and any employee who shall be an applicant for a pension as to such employee's right to a pension or the amount of his pension and agreement cannot be reached between the company and a representative of the internation union, such question shall be referred to an impartial umpire to be selected by the company and by the union. The impartial umpire shall have authority only to decide the question pursuant to the provisions of this agreement applicable to the question but he shall not have authority in any way to alter, add to or subtract from any of such provisions.

2. If any difference shall arise between the company and any employee as to whether such employee is or continues permanently incapacitated within the meaning of section__ paragraph__, such difference shall be resolved as follows:

> The employee shall be examined by a physician appointed for the purpose by the company and by a physician appointed for the purpose by a duly authorized representative of the international union. If they shall disagree concerning whether the employee is permanently incapacitated, that question shall be submitted to a third physician selected by such two physicians. The medical opinion of the third physician, after examination of the employee and consultation with the other two physicians, shall decide such question. The fees and expenses of the third physician shall be shared equally by the company and the union. (142)

Some contracts did not require a special arbitrator, but provided for the employment of technical or medical experts to assist the arbitrator when needed, as in the following:

> When an arbitrator is requested to consider a case within one of the above exclusions /production standards-safety and health/, it is understood that he may need to call on expert or technical witnesses to assist him. The company and the union agree to share equally the expenses of such experts as the arbitrator considers necessary to a fair and equitable decision. (143)

* * *

> Said commission /tripartite arbitration board/ shall further have the power, duty and authority to: Engage or secure auxiliary experts for advice or research, subject to prior concurrence in and approval of any expenditure in excess of $500 for such purposes by both the union and the company representatives . . . (144)

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All controversies that may arise in the tannery which cannot be satisfactorily adjusted between the parties shall be referred to arbitration at the request of either the union or the employer . . .

The impartial arbitrator shall hold hearings upon the issue, make such investigations, hire such technical experts as he shall deem necessary, and render his decision in writing which shall be final and conclusively binding upon the parties thereto . . .

The expense and charges of the impartial chairman and technical experts shall be shared equally by the parties. (145)

* * *

In any case appealed to the appeal board involving a continuing refusal of management to return an employee to work from sick leave of absence which has continued for 26 weeks or longer, if the employee's personal physician has found, contrary to findings of a physician or physicians acting for the corporation, that the employee is able to do a job to which his seniority entitles him; the impartial chairman may, if he deems it advisable, obtain the services of a competent physician or specialist in deciding a case referred to him under this section. (146)

Most of the contracts which provided special procedures were in the durable goods manufacturing industries.

Qualification of Arbitrators

Except in contracts which provided for special arbitrators for certain issues, eligibility requirements for arbitrators were not often specified. Qualifications imposed for arbitrators of regular grievances usually were designed to prevent selection of an individual whose neutrality was in doubt. The most common requirement prohibited selection of an arbitrator who was affiliated in any way with the company, association, or union; a few specifically excluded stockholders. A few contracts required residence within the State, while others prohibited appointment of anyone residing or in business within a certain radius of the company's plant.

Such neutral arbitrator shall not be a stockholder, officer, employee, or agent of the division, nor connected with the union in any manner. (147)

* * *

As soon as the issues for arbitration are formed, as above set forth, the company and the union shall endeavor to agree upon and select an impartial umpire. If the company and the union shall fail to agree upon and select an impartial umpire within 2 days after the issues for arbitration are formed, they shall mutually request the director of the Federal Mediation and Conciliation Service to name five persons, who shall be residents of the State of Georgia, and who shall not be affiliated with either the company or the union, . . . to serve as impartial umpire. The union shall strike two of the persons so named, and the company shall strike two of the persons so named, and the fifth or remaining person so named shall be the impartial umpire. (148)

* * *

. . . However, no person whose residence or place of business is within a 100-mile radius of Huntington, W. Va., shall be appointed the third arbitrator. (149)

A few contracts banned public officials or State and Federal employees.

No person holding an elective or appointive public office shall be eligible to serve as an arbitrator. (150)

* * *

. . . they shall mutually request the director of the Federal Mediation and Conciliation Service to name five persons, who shall not be . . . employees in any State or Federal agency . . . (148)

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A precautionary measure, illustrated in the following excerpt, required the prospective arbitrator to disclose any circumstances which might disqualify him:

> At the time of receiving his notice of appointment, the prospective arbitrator shall disclose any circumstances likely to create a presumption of bias, or which he believes might disqualify him as an impartial arbitrator, or cause either party to object to him acting as an arbitrator. (151)

A few contracts required that the arbitrator be "professionally qualified:"

> The arbitrator appointed by the Federal Mediation and Concilication Service shall be professionally qualified to arbitrate each type of grievance. (152)

Some of these qualifications were included in contracts which provided for direct selection by the parties; others were specified when provision was made for outside participation if the parties could not agree on the selection.

Although generally no restrictions were placed on the union or management in the selection of their representatives, a few contracts, as noted earlier, called for appointment of impartial representatives by each party (see page 43, clause 90). One contract specifically banned appointment of legal advisers of either party:

> The union and the company . . . shall each designate one arbitrator . . . and the two so designated shall . . . select a third who shall act as chairman . . .
>
> No lawyer or legal adviser of either party shall be designated by either party as an arbitrator under this section. (153)

Time Limits on Selection of Arbitrators

Most contracts set time limits on the selection of the arbitrators. If the parties were not able to agree on a choice within the specified time, the contracts usually provided for outside participation. Under AAA rules, 7 days are allowed for appointment of the arbitrator if no period of time is specified by the parties. The FMCS allows 15 days after mailing a panel to the parties. Under these rules, the agency is authorized to make the appointment if either party fails to do so within the allotted time.

For selection of a single ad hoc arbitrator, time limits specified in the contracts generally ranged from 3 to 10 days after referral to arbitration, with 1 week most often specified.

> If within 1 week after a request for arbitration shall have been sent by one party to the other, the parties are unable to agree upon a single arbitrator, then an arbitrator shall be appointed by the Dean of the Yale Law School. (154)

Time limits were necessarily longer where an ad hoc board was involved, frequently ranging from 20 to 30 days for the selection of all members. Usually, separate time limits were set for selection of the union and management representatives and for the impartial chairman, as in the following:

> (a) Within 15 days from the meeting at which the controversy has failed to be satisfactorily adjusted, the party choosing to arbitrate shall give written notice to the other party setting forth specifically the nature of the dispute to be arbitrated and designating one arbitrator selected by it.
>
> (b) Within 5 working days from receipt of such notice the other party shall notify the first party of the arbitrator selected by it and shall also serve on the first party its statement of the matters to be arbitrated.
>
> (c) Within 10 working days after the selection of the second arbitrator, the two arbitrators shall select a third, who shall act as chairman. If they are unable to agree on a third arbitrator within said 10 working days, the parties shall jointly request the FMCS to submit a list of nine nominees . . . the parties shall alternately cross off the name of a nominee and the last name on the list shall be the impartial arbitrator. (81)

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Where the union and management members were required to attempt to settle the grievance before selection of an impartial chairman, a time limit on this phase of the procedure increased the time permitted for selection after the initial request for arbitration.

> Within 10 days after the receipt of such notice, each party shall select an arbitrator and notify the other party of his name. The two arbitrators so selected shall meet as soon thereafter as is practicable, but in no event later than 5 days after the expiration of the 10-day period mentioned, to attempt to reach a mutually satisfactory adjustment. Upon failure to do so within 5 days thereafter, the two parties so selected shall select a third arbitrator and agree upon the general method of conducting the arbitration hearing. If the arbitrators are unable to agree upon the third arbitrator within 7 days, exclusive of Saturdays, Sundays, and holidays, the third arbitrator shall be selected under the rules of the American Arbitration Association. (99)

In some of the 73 contracts which specified an ad hoc chairman with permanent labor-management representatives, time limits were set for selection of all members; in others, officers of the union and of the company were designated as members in the contract (see clauses 66 and 122, page 42).

In permanent arbitration arrangements, if the arbitrator or impartial chairman of the board was not named in the contract, the maximum time for selection, or for referral to an outside agency for assistance in selection, usually ranged from 10 to 30 days after the effective date of the contract, with 30 days most frequently specified (see clauses 127 and 135, page 46).

If alternates or successors to the impartial chairmen were not designated in the contract, time limits were sometimes stipulated for selection or referral to an outside agency. Time limits ranged from 5 to 30 days.

> The impartial /arbitrator/ shall be /name of individual/, who shall serve for the life of this agreement, . . . If the said /name of individual/ shall resign or for any reason become incapable of acting, the parties hereto shall agree upon a substitute . . . If the parties hereto cannot agree within 10 days of the creation of the vacancy upon a new impartial /arbitrator/, then such substitute shall be appointed by the /FMCS/. (155)

* * *

> In the event of the resignation, incapacity or death of the chairman, or at the conclusion of his term of office hereinbefore specified, the parties shall, within 30 days, or such additional time as may be agreed upon, after such event, name a successor through mutual agreement. (135)

Many of the contracts specified that time limits for appointment of an arbitrator, impartial chairman, alternate, or successor could be extended by mutual agreement. A few contracts merely called for selection within a "reasonable time."

Cost of Arbitration

Provisions for apportioning arbitration costs were included in 360 of the 416 contracts examined in detail. In all but 10 of these contracts, the employer and the union agreed to share equally the cost (fees and expenses) of the arbitrator or of the impartial chairman of a tripartite board. Where arbitration boards were involved, the contracts generally stipulated that each party would bear the expenses of its appointed member; in others, this was implied.

> The fees and expenses of the arbitrator /single arbitrator/ shall be borne equally by the parties to this agreement. (156)

* * *

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> . . . In case a board of arbitration is established . . . each party shall be responsible for the costs and expenses of its appointed member . . . and share equally in the expenses and fees of the chairman of the board of arbitration. (157)
>
> * * *
>
> The costs of arbitration, exclusive of the parties' representatives, shall be borne equally by the company and the union. (17)

The New York City Transit Authority's contract with the Transport Workers Union modified its provision for equal sharing of the permanent arbitrator's cost by requiring any individual employee who appealed to the arbitrator to pay $10 for each appeal (a nominal payment considering the costs of arbitration). This sum was to be deducted from the union's share of arbitration costs:

> The impartial arbitrator /permanent arbitrator/ shall be paid reasonable compensation for his services. One-half of such compensation shall be paid by the authority. The other one-half shall be paid by the union, less the sum of $10 for each grievance appeal to the impartial arbitrator by an individual employee, which sum shall be paid by the individual employee. (158)

A few contracts with provision for arbitration boards merely stated that the "expense of arbitration" was to be shared equally. It was not clear whether, in addition to sharing the expense of the chairman, the union and management were to share equally the expense of both partisan members, or each party was to pay for its member's expense. The following is an example:

> The expense of arbitration /arbitration board/ shall be shared equally by the parties to the agreement. (159)

Only 7 of the 360 contracts required the losing party to pay the cost of the arbitrator or impartial chairman. The contracts either defined the arbitrator's costs to include his fees and expenses or merely referred to arbitration cost or expenses. A few stipulated that each party was responsible for the expense of its representatives on an arbitration board.

> Each party shall bear the expense of its own representative on the arbitration board, and the loser shall pay the fees of the impartial chairman and the costs of preparing the transcript. (160)
>
> * * *
>
> The administration fee /AAA/ and cost of arbitration shall be borne by the losing party . . . (86)
>
> * * *
>
> The expenses of the impartial arbitrator, if any, shall be assessed by said arbitrator in his award and paid by the losing party. (161)

One of the contracts required the arbitrator to stipulate the loser, and two included this requirement if there was a question as to which party had lost the case.

> The arbitrator, in making the award, shall stipulate which party is the loser. (86)
>
> * * *
>
> The cost of the expenses of the American Arbitration Association proceedings, including the compensation paid the chairman of the arbitration board, shall be paid by the party losing the case. If the decision is not clear-cut as to which party won or lost said case, the chairman of the arbitration board shall decide which party shall be assessed the cost. (162)
>
> * * *
>
> The costs of arbitration, which shall include the fees and expenses of the arbitrator and an original of the transcript of the hearing if requested by the arbitrator, shall be borne by the parties whose principle contention was rejected by the arbitrator, except, however, that each party shall pay for the fees of its own representatives and witnesses for time lost. Any dispute as to whose principle contention was rejected shall be determined by the arbitrator. (69)

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A variation in one contract permitted the arbitrator to apportion the cost. Another required each party to share the cost in event of a compromise.

> The expense incident to such arbitration shall be borne by the party, the company or the union, which loses the arbitration; provided, however, that the arbitrator may, in a given case, apportion the expense incident thereto between the company and the union as he may deem just and proper in all the circumstances. (163)

* * *

> All expenses attendant upon the settlement of any appeal or hearing before the committee or arbitrator shall be borne by the party losing the appeal, or, in case of a compromise being reached, each party to the controversy shall bear half of the cost. (64)

One contract left the matter of allocation of expenses to the determination of the arbitrator.

> Any expense incidental to the arbiter shall be assessed by him against either party as determined by the arbiter. (164)

The two remaining contracts provided for negotiation of cost apportionment.

In general, the contracts referred to the arbitrator's fee and expenses, but did not define the expenses which the parties were to pay. Where contracts provided for assistance of the AAA or the FMCS, the rules of these agencies were applicable. In addition, a number of contracts specifically prescribed arbitration under these rules.

The AAA rules for arbitration include a list of specific expenses and the method of allocation. The FMCS also prescribes a method of allocating specific expenses, but permits the parties to make other arrangements.[22]

Clauses which did not define costs and expenses typically read as follows:

> The fees and expenses of the impartial chairman shall be shared equally by the company and the union. (73)

* * *

> The salary and expenses of the third arbitrator, and the incidental expenses, shall be shared equally. (162)

* * *

> The arbitrator's fees and expenses shall be shared equally . . . (94)

It is likely that the intent of these clauses is to encompass all types of expenses arising out of the case.

Occasionally, however, travel expenses of the arbitrator and other related items, such as transcripts and records, were cited.

> . . . His /arbitrator/ fees and expenses shall be paid one-half by the company and one-half by the union and the expense of a copy of a stenographic record of the arbitration proceedings for the arbitrator shall be borne equally . . . if the arbitrator desires such copy. (165)

* * *

> The agreed compensation and necessary traveling expense of the arbitrator and the other expenses incident to the hearings or meetings involved in the case shall be borne equally . . . (76)

---

[22] Op. cit., footnote 20.

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In contrast to these provisions, the contract covering several dress manufacturer's associations in the Greater New York Area, which provided for annual payments by the union and the associations to finance the permanent impartial machinery, was more specific, as illustrated in the following excerpt:

> The parties hereto have determined that the sum of $150,000 per year is necessary to maintain the office of the impartial chairman and administrator, and to make it possible for them and each of them to lease necessary space, to acquire necessary equipment and supplies and to employ the necessary numbers of persons required for the speedy and efficient administration of their duties under the terms of this agreement. It is hereby agreed that the union shall pay towards that amount the sum of $30,000 per year, and that the United Better Dress Manufacturers' Association, Inc., shall pay towards that amount the sum of $19,000 per year, and the United Popular Dress Manufacturers' Association, Inc., shall pay towards that amount the sum of $16,500 per year, and that The Popular Priced Dress Manufacturers' Group, Inc., and the National Dress Manufacturers' Association, Inc., shall collectively pay the sum of $84,500 per year. (166)

The U.S. Steelworkers contract did not stipulate the amount allowed for operating expenses of its board of arbitration, but stated that the budget would have to be approved by the company and the union.

> The board /of arbitration/ shall have the authority to maintain suitable offices which shall be located in . . ., and to employ the services of necessary personnel to meet its requirements. All expenses of the board and the compensation of the chairman of the board shall be shared equally by the company and the union. The board shall operate within a budget which must have the approval of the company and the union. (11)

Expenses incurred by the company or the union were generally to be paid by the party incurring the expense. Most clauses were not specific as to what the expenses involved:

> The agreed . . . expense of the arbitrator . . . shall be borne equally by the company and the union, but this shall not include expenses contracted by either of the parties in the preparation and presentation of the case. (76)

A few, however, cited such items as attorney's fees, witnesses called by either party, reports, and stenographic transcripts requested by either of the parties.

> The fee and expenses of American Arbitration Association shall be borne equally between the company and the union.
>
> It is understood and agreed that if either party uses the services of an attorney, the expenses incurred will be borne by the party requesting such services.
>
> Expenses of witnesses for either side shall be borne by the parties producing such witnesses.
>
> Total cost of stenographers' records which may be made and transcripts thereof shall be paid by the parties ordering same. (167)
>
> * * *
>
> Each of the parties to this agreement shall pay for the time and expenses of its respective arbiter, representatives or witnesses through all stages of arbitration procedure. The parties shall contribute equally to the fee and expenses, if any, of the third arbiter, provided that any fee or expenses of the third arbiter shall be decided upon in advance of the arbitration hearing, and transmitted to the local secretary of the American Arbitration Association for disbursement to the third arbiter. (168)
>
> * * *
>
> If an employee or other witness is called by the company, the company will reimburse him for time lost. If an employee or other witness is called by the union, the union will reimburse him for time lost. (39)
>
> * * *
>
> The fee of the arbitrator and the necessary expenses (exclusive of any payments to witnesses) of an arbitration proceedings shall be borne equally between the company and the association, except that each party shall pay the fees of its own counsel or representative.
>
> If an employee or other witness is called by the company, the company will reimburse him for time lost; if an employee or other witness is called by the association, this association will reimburse him for time lost. (169)

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A limited number of contracts specifically stated that time spent by union representatives, and occasionally by witnesses, in arbitration proceedings during working hours would be paid for by the employer. A few of these placed a limit on the number of employees to be paid.

> The fees and expenses of the impartial chairman shall be shared equally by the company and the union. The chairman of the shop committee and the president, or duly designated representative of the union, shall be paid for time spent in arbitration if it occurs during their regular working hours. In addition the company shall pay for time lost from regular working hours of one additional employee if required as a witness in arbitration. In the case of disciplinary action grievances two employees may be paid for time lost from regular working hours if required as witnesses. In no case shall the number of employees paid by the company exceed four. (73)

* * *

> Each party agrees to be individually responsible for the payment of its own arbitration representative. They shall agree to the salary and expenses of the third arbitrator and any other expenses incidental to arbitration. The salary and expenses of the third arbitrator, and the incidental expenses shall be shared equally.
>
> Payment for other arbitration costs shall be handled as follows:
>
> (a) Company will pay lost time of union's grievance committee.
>
> (b) Union will pay lost time of witnesses called by the union.
>
> (c) Company will pay employees in the department directly affected by (a) or (b) above. (170)

The aggrieved employee's time lost while appearing at hearings was to be paid for jointly by the company and the union under the terms of a few contracts:

> Each party shall pay one-half of the aggrieved employee's time lost from work for appearance at the arbitration proceedings. (171)

Conversely, another contract stipulated that employees representing the union in arbitration proceedings would not be paid for time lost: [23]

> No employee shall be paid for time lost, while acting as a representative of the brotherhood during arbitration proceedings. (172)

Exceptions to the allocation of costs were found in several contracts. The B. F. Goodrich-United Rubber Workers contract, in addition to a standard clause for sharing of costs, made provision for company payment of arbitration costs and reimbursement to the union if the company initiated arbitration of a controversy involving a majority of the employees:

> Controversies may arise of a nature so general as directly to affect all or a majority of the employees of a division or plant . . .
>
> In the event the company appeals a grievance to arbitration, the company will pay the entire arbitrator's fees together with his expenses incident to the particular problem presented to him. In addition, the company will reimburse the union, up to one thousand dollars ($1,000) for each case the company appeals to arbitration, for necessary expenses incurred by the union in connection with such arbitration proceedings. (157)

Clauses in three other contracts appear to be designed to prevent excessive arbitration costs. One clause granted the arbitration board authority to assess the costs to the party which presented trivial or undeserved complaints.

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[23] See Collective Bargaining Clauses: Company Pay for Time Spent on Union Business (BLS Bulletin 1266, 1959).

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Another clause, which permitted more than one issue to be submitted at one time, granted either party the right to request separate arbitration by different arbitrators, provided the requesting party paid any additional costs incurred. The third contract, which provided for informal arbitration of specified issues and formal hearings for any others, permitted either party to demand a formal hearing for any of the specified issues. However, if the requesting party lost the case it was required to pay all fees and expenses.

> To deter the union and the employer from referring to the joint conference committee trivial complaints or presenting grievance without just cause, the joint conference committee or the arbitration board may, in its discretion, assess the cost of any case against the party presenting such trival or undeserved case or cases for trial, otherwise the cost shall be divided equally between the two parties. (173)
>
> * * *
>
> In the event that more than one issue is submitted to arbitration at one time, either party shall have the right to insist that the issues be arbitrated separately and by different arbitrators. The party requesting separate arbitrations in such case shall pay the additional administrative charges of the American Arbitration Associations arising from separate arbitration proceedings, and if the hearings in any separate arbitration proceeding are of short duration so that the fees of the arbitrators are greater than such fees would have been in a single arbitration determining in one proceeding all matters originally submitted together, the party requesting separate arbitrations shall pay such excess fees. (174)
>
> * * *
>
> The arbitration of all disputes relating to the discipline, discharge, suspension, layoff or downgrading of an individual employee, disputes relating to bulletin boards and rights of access, and disputes alleging monetary claim of an individual employee against the company, except in cases involving promotion and transfer, shall be an informal hearing, unless either party within 5 days after the complainant elects to take the dispute to arbitration, demands a formal hearing. In such event the party so demanding a formal hearing shall pay the entire fees and expenses of the arbitrator if the arbitrator's decision is in favor of the other party. (44)

Most of the contracts did not stipulate the arbitrator's fee, nor indicate how the fee would be determined. However, where contracts provided for arbitration with the assistance of, or under the rules of, the AAA or the FMCS, it may be assumed that the rules of these organizations regarding arbitration fees were followed. The FMCS permitted its nominees or appointees to charge a maximum of $150 per day. The AAA rules do not prescribe a minimum or maximum fee, but the procedures are such that the parties are notified of the fee set by the arbitrator when the list of names is furnished.

The few contracts which indicated the arbitrator's fee usually specified a maximum amount, as in the following:

> The fee of the arbitrator and his expenses shall be borne equally by the parties and the fee shall be borne equally by the parties and the fee shall not exceed $100 per day. (136)

Some agreements either stated or implied that the arbitrator's fee, and sometimes expenses, were to be mutually agreed upon:

> The fees and expenses of the impartial umpire shall be paid by the company and the union in equal parts, and shall be agreed upon in advance of the arbitration. (148)
>
> * * *
>
> The agreed compensation and necessary traveling expense of the arbitrator and the other expenses incidental to the hearings or meetings involved in the case shall be borne equally by the company and the union, but this shall not include expenses contracted by either of the parties in the preparation and presentation of its case. (76)
>
> * * *

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> Each party shall bear the expense of presenting its own case. The cost of the arbitrator and of incidental expenses mutually agreed to in advance shall be borne equally by the parties. (2)

One contract also provided that, if the parties failed to agree on the arbitration expenses, the union would be free to strike or take other action:

> The expenses for the arbitrator shall be paid by the parties hereto in such manner as the parties agree. In the event they fail to agree, or the association fails to make the agreed upon payment, the union may strike or take such action as it deems appropriate, irrespective of any other provisions of the agreement. (175)

Another contract required the parties to share equally payment of $200 to a judge for appointing an arbitrator, if they were unable to select one.

> In the event the parties are unable to agree upon an arbitrator . . . the unions shall mail a copy of the grievance . . . to the Common Pleas Judge . . . with a request that such judge appoint an arbitrator . . .
>
> Within 10 calendar days from the date of receipt of the copy of the company's last disposition of the grievance, the judge shall appoint an arbitrator and shall advise the parties in writing of his appointment. The parties shall share equally the payment of a fee of $200 to the judge for his services as heretofore outlined. (165)

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Chapter V. Procedural Rules and Regulations

Provisions relating to rules governing arbitration procedures were included in 1 out of every 3 of the 416 contracts analyzed in detail. In over half of these contracts, the rules were outlined in the contract, in some in considerable detail. Most of the remainder stipulated that AAA rules[24] would govern the conduct of the arbitration. A few specified State rules,[25] or provided that the arbitrator or tripartite board establish the rules.

	Agreements	Workers (in thousands)
Number studied	416	2,600.1
Procedural rules established	141	1,236.6
In the agreement	77	768.2
By the arbitrator(s)	13	206.4
AAA rules	44	221.3
AAA rules, except in case of conflict, contract provisions apply	3	8.8
State rules	4	32.0

NOTE: Because of rounding, sums of individual items may not equal totals.

Although approximately two-thirds of the 416 contracts were silent regarding procedural rules, it may be assumed that in most instances such rules would be established in one of two ways. Either the arbitrator (or board) would establish necessary procedures for the orderly conduct of arbitration, or, where an outside agency participated in selection of the arbitrator, the participating agency's rules would apply.

Some of the contracts which specified use of AAA rules provided for selection of the arbitrator by the parties themselves. Others either provided for selection by the AAA initially, or only in event the parties could not agree on a choice. It was not always clearly indicated whether AAA rules were to be followed if the parties selected an arbitrator without assistance from the agency.

> The arbitration shall be held under the voluntary labor arbitration rules then obtaining of the American Arbitration Association and the parties agree to abide by any award rendered any such board of arbitration, . . . (176)

* * *

> Any grievance subject to arbitration under this contract shall be submitted to arbitration under and pursuant to the existing voluntary labor arbitration rules of the American Arbitration Association. (177)

* * *

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[24] See appendix B.

[25] General arbitration statutes have been enacted in all but four States, through 1965. Some of these specifically include labor arbitration; others do not expressly do so, and five specifically exclude labor arbitration from coverage. These laws vary considerably from minimal requirements providing that the arbitrator be sworn in, that the award be in writing and rendered within a specified time, to much more extensive regulations, including the arbitrator's power to take depositions and issue subpoenas, and the method of selecting the arbitrator.

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> The parties may mutually agree upon an arbitrator, but if they are unable to do so within 5 days, either party shall request the American Arbitration Association to invoke its procedure for the selection of an arbitrator to conduct the arbitration in accordance with its rules on voluntary labor arbitration. (178)

A few of the contracts waived any AAA rules which might be in conflict with the provisions of the contract:

> In case of any conflict between said [AAA] rules and the provision of this contract, the provisions of this contract shall govern. (177)

The FMCS did not set procedural rules for the conduct of the hearing, other than requiring that the award be made within 30 days from closing of the hearings or receipt of post-hearing briefs, etc., and that selection from the panel be made within 15 days, unless otherwise agreed to by the parties. Rather, the duties and responsibilities of the arbitrator were outlined in the Service's published policies, reproduced in appendix B.

The few contracts which indicated that State arbitration laws were applicable either explicitly stated that State laws would govern, or that the provisions were subject to State law, or implied this fact by providing for submission of the dispute to a State board, without stipulating any rules of procedure:

> Such arbitration shall be conducted in the State in which the grievance arises and be governed by the laws of that State. In event the company and union are unable to agree upon a city in that State, then such arbitration shall be held in the city which is the capital of such State. (179)

* * *

> The arbitration provisions contained in this agreement are subject to the provisions of New Hampshire Revised Statutes annotated 1955, chapter 542, section 1. (180)

* * *

> Any dispute or controversy arising during the life of this agreement, which cannot be settled to the mutual satisfaction of both parties, shall be submitted for arbitration to the State Board of Arbitration and Conciliation of Massachusetts . . . (8)

A few contracts which referred to State laws, as well as some which did not otherwise refer to State laws, waived the required arbitrator's oath:

> In the event that they [grievance representatives] shall fail to adjust any such matter, it shall be submitted to arbitration pursuant to the laws of the State of New York before the impartial chairman hereinafter named . . .
>
> The taking of the oath by the arbitrator pursuant to section 1455 of the Civil Practice Act of the State of New York is hereby expressly waived. (181)

* * *

> The oath of the arbitrator, required by law, is hereby expressly waived. (182)

* * *

> The parties agree that the oath of the arbitrator is waived and consent that he may proceed with the hearing on this submission. (183)

Some of the 13 contracts which indicated that setting procedural rules was the responsibility of the arbitrator or tripartite board explicitly stated this condition; others merely referred to rules set by the arbitrator or board. Included in some of these provisions were requirements for a unanimous determination

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by the board, for rules not in conflict with the contract, and for rules similar to those of the AAA.

> The /arbitration7 board may by unanimous vote make such rules and regulations for the conduct of its business as do not conflict with these provisions. (184)
>
> * * *
>
> The procedure of the arbitration hearing shall be determined by the board provided, however, that the parties agree to recommend to the board that it use applicable rules of procedure such as those of the American Arbitration Association to govern the proceeding. (185)
>
> * * *
>
> The arbitration proceedings shall be conducted as speedily as possible, in accordance with the rules set by the arbitrator . . . (186)
>
> * * *
>
> After appointment or designation of the umpire /permanent arbitrator7 a representative of the company and a representative of the union shall meet with the umpire to determine . . . procedural rules to govern cases arising hereunder . . .
>
> The umpire shall consult with the company and the union with respect to any additional rules and regulations required to govern the procedure and administration of the umpire. (125)

Specific Procedural Rules

The following sections discuss procedural rules outlined in the contracts. Frequently, more than one rule was included in a contract.

Formulation and Submission of Issues. Rules governing formulation and submission of the issues in dispute were included in 50 of the 416 contracts. Provisions in nearly all of these 50 contracts required the parties, either separately or jointly, to submit written statements defining the disputed issues. Some clauses specified in detail other information required, such as the original grievance, whether the grievance procedure was exhausted, the applicable agreement clauses, the position of the parties, and supporting arguments.

Submission of separate statements from each party was required in 20 of the 50 contracts. Determination of the issue by the arbitrator was implied in these clauses. Some merely required each party to set forth its position prior to the hearing, usually with provision for submittal of additional statements during the hearing:

> The complaint shall be referred in writing to a committee of arbitration . . . Each party shall set forth in writing its position on any matter of arbitration and submit it to the chairman prior to the hearing; provided, however, that either party may submit further statements and information during the hearing. The committee of arbitration shall promptly hear the matter and shall, within 30 consecutive days from the appointment of the impartial chairman render its decision, . . . (90)

Other clauses in this group were more detailed, specifying the information required in each party's brief, including, in some instances, a time limit for submission. The following excerpt from the General Motors-UAW contract illustrates this type of provision:

> After a case has been appealed to the umpire by either the union or the corporation, the briefs of both parties shall be filed with the umpire within 21 days from the date of the receipt of "Notice of Appeal" . . .
>
> All cases shall be presented to the umpire in the form of a written brief prepared by each party, setting forth the facts and its position and the arguments in support thereof . . . (55)

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In a few agreements, the section of the contract in dispute also was to be cited.

> Upon the submission of a grievance or dispute to arbitration, the company and the union shall set forth in writing specifically by number or numbers, the issue or issues, as previously set forth prior to and during the /final/ third step meeting, together with supporting information. Included in its statement of issues, the appealing party shall cite the section or sections of the agreement it claims have been violated and the redress it expects from arbitration. The arbitrator shall confine his decisions to the statement of such issues. (187)

A somewhat similar provision, found in a few of the contracts, granted each party the option of submitting its case in writing or orally, as in the following:

> All cases shall be presented to the umpire either in the form of a written brief, or orally, or both, each party setting forth the facts and its position, and the arguments in support thereof. The briefs of both parties, if they are to be submitted, shall be filed with the umpire at any time prior to the beginning of the hearing. (188)

In three contracts, only the appealing party was required to submit a statement of the disputed issues:

> . . . The board of arbitration shall be supplied by the party demanding arbitration with a written statement of the issues in the case. (189)

Most of the remaining 27 contracts provided for joint submission. Approximately half of these did not specifically provide an alternative if the parties could not agree on the submission.

> The parties shall jointly stipulate in writing the issue to be decided by the arbitrator. (190)
>
> * * *
>
> Before any matter is submitted to arbitration the parties shall submit a joint statement limited solely to the facts as stated in the written grievance and clearly defining the issues to be arbitrated. (6)

One contract provided for a joint submission covering the points upon which the parties were in agreement, as well as separate statements by each party. A proviso, also found in several other agreements, permitted inclusion of supplemental statements received prior to the hearing:

> In each case submitted to arbitration, the charging and defending parties shall prepare, sign and deliver written submissions to the arbitrator, selected as provided in section__ of the agreement, and to the other party. Such submissions shall be delivered not less than 7 days prior to the date of the hearing and shall include:
>
> (a) Joint statement of all relevant facts upon which the parties are in agreement and a statement defining the issue(s) upon which the parties are in agreement.
>
> (b) Statement by the charging party of its charges with citations of the specific provisions of the agreement which it alleges were violated.
>
> (c) Statement by the charging party of the relief sought.
>
> (d) Statement by the defending party of its defense, with citations of specific provisions of the agreement upon which it relies.
>
> (e) The defending party may also state what it contends the remedy or relief should be if the arbitrator should find that the alleged violation had occurred.
>
> (f) Copies of any documentary evidence which either party considers relevant, subject to the limitations imposed by statement of policy (c) relating to section__.

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At any time prior to the start of a hearing by the arbitrator, the contending parties may prepare, sign and deliver to him and to the other party written supplements to the submissions previously delivered to him and they shall be considered by him as though included in the original submissions.

At any time prior to the start of a hearing by the arbitrator, the contending parties may notify him that they have reached an agreement and in such event no hearing shall be held. . . .

It is understood and agreed that each party to a case submitted to arbitration will do everything in its power to permit early selection of and decision by the arbitrator. Delaying tactics by one party in the preparation, execution or delivery of the joint submission or in the arrangements for presentation to the arbitrator may be made the subject of complaint by the other party which may be processed through the grievance procedure. (117)

An interesting variation required the arbitrator to define the issues in writing; agreement by the parties was a prerequisite to arbitration proceedings:

The impartial arbitrator, at the start of the arbitration proceedings, shall place in writing a description of the issue or issues involved, and this subject of arbitration shall first be agreed upon by the parties before their arguments are presented. (191)

A few contracts permitted the parties the option of submitting separate or joint statements. The following clause prescribes the same rules for either type of submission:

Matters for arbitration may be submitted by either party singly or with management concurrence. Single-party submissions must conform to all appropriate provisions set forth below for joint submission agreements. The submission agreement must:

1. Be signed by both parties.
2. Restate the grievance as orginally submitted.
3. Stipulate that the parties tried and failed to settle in the grievance procedure.
4. Describe the general nature of the dispute.
5. Cite the contract provisions to be interpreted or applied.
6. Specify a question to be submitted for arbitration which reaches to the basic issue of the grievance as originally submitted. (2)

Other contracts specifically provided or implied that determination of the issues, if the parties did not agree, was to be made by the arbitrator, either from the joint submission or from separate statements by each party:

In the event that the company and the union are unable to agree on the precise wording of the question to be arbitrated, they will submit to arbitration in accordance with the provisions of this agreement the dispute on the wording of the issue which is to be arbitrated. (192)

* * *

In the event that the parties are unable to reconcile their respective positions as to be definition of the issue or issues being referred to arbitration, then the written statement of both parties shall be presented to the arbitrator. (193)

* * *

The parties shall execute a submission agreement. If the parties fail to agree upon a joint submission each party shall submit a separate submission and the arbitrator shall determine the issue or issues to be heard, provided that said issue or issues are arbitrable in accordance with this section. The joint or the separate submission shall state the issue or issues and the specific clause or clauses of this agreement which the arbitrator is to interpret or apply. Decision on this issue or issues to be heard shall be made by the arbitrator before either party may proceed with the merits of the case. (171)

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An exception, illustrated below, provided for determination by a referee (a former judge) of the issue before referral to an arbitrator.

> Section 4. Appointment of Conciliators
>
> Within 10 days after . . . the referee has determined that a question shall be arbitrated, the company and the union shall each appoint a conciliator . . .
>
> Section 5. Selecting the Arbitrator
>
> If the conciliators appointed by the company and the union do not agree on a decision they shall try to choose an arbitrator.
>
> If they do not choose an arbitrator within 5 days after the meeting, an arbitrator shall be selected under the rules and regulations of the American Arbitration Association.
>
> Section 8. Determining Arbitrable Question
>
> If the party receiving the proposal to arbitrate is not willing to arbitrate the particular proposed question, these rules apply:
>
> 1. Within 15 days after the expiration of the 10 days specified in section 4, either party may appeal to the referee;
>
> 2. The referee shall first decide whether the proposed question is arbitrable under section 3;
>
> 3. If he decides that it is arbitrable, then if the other party has suggested a different arbitrable question the referee shall determine which of the two questions shall be arbitrated.
>
> If neither party appeals to the referee, or if the referee decides that the proposed question is not arbitrable, then, the answer given in the last step in the grievance procedure is final.
>
> Section 9. Referee
>
> The referee shall be a former Judge of the Superior Court or Supreme Court bench of New Jersey, selected by the parties by mutual agreement for a term of 12 months at which time his tenure automatically ends. (194)

Another variation provided for determination of the submittal procedure by the parties each time arbitration was requested, or by the arbitrator if the parties could not agree within a specified time.

> The procedure to be followed in submitting the difference or dispute to the arbitrator shall, unless agreed upon by the parties within 3 workdays after the selection of the arbitrator, be determined by the arbitrator himself. (195)

Time and Place of Hearing. Some contracts included regulations pertaining to the time and, less frequently, the place of arbitration hearings. Most of the time limits ranged from 5 days to 3 weeks from the selection of the arbitrator or request for arbitration, although extremes of 24 hours to 1 year were found. Frequently, provision was made for extension of time limits by mutual agreement. A few contracts included provisions for appointment of a different arbitrator if the arbitrator's request for postponement was denied, or a stipulation that the grievance would be considered withdrawn if hearings did not start within the specified time.

> Hearing shall be started within 5 calendar days following selection of the board of arbitration with the exception that a longer period may be allowed by mutual agreement wherever the impartial person may not be able to comply with the time limit. In the event, however, that the impartial person is unable to make himself available within 20 calendar days following selection, an alternate shall be named. (196)

* * *

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The arbitration hearing shall be held as soon as convenient to the chairman of the board but not later than 3 weeks after his selection, . . . (197)

* * *

Immediately after the arbitrator is selected, the parties will notify the arbitrator of the pending question and a date for the hearing will be set. This hearing will be held within 30 calendar days after the arbitrator has been notified, provided, however, that a request by the arbitrator for postponement to a date beyond this 30-day period may be denied by either party, in which event the arbitrator for this hearing only shall be appointed by the director of the Federal Mediation and Conciliation Service. (198)

* * *

The hearing on the particular grievance shall begin not later than 1 year from the date of the third-step answer /final grievance step/. If the hearing is not started within this period it shall be considered as withdrawn from arbitration and settled.

The arbitration board shall hear all evidence and render a decision within 7 days of the arbitration hearing unless this time is extended by mutual consent. (17)

* * *

Date of Hearing__ Within 5 working days following receipt of a joint stipulation from the parties, or notice from the opposing party that 5 working days have elapsed since the selection of the arbitrator and no stipulation has been agreed upon, the arbitrator shall set a date for hearing, which date shall not be earlier than 10 working days from the date upon which the arbitrator mails notice of such hearing date to the company and the union, except by mutual agreement of the parties. (199)

Other contracts did not set a time limit, but left this determination to the arbitrator. This procedure was more prevalent in clauses which referred to the place of hearing. In some instances, both determinations were to be made by the arbitrator.

The parties further agree that the arbitrator shall fix the time and place for each hearing, and that notice thereof shall be sufficient if sent by ordinary mail at least 5 days prior to the time fixed for the hearing. (200)

A few contracts provided for selection of time and place by mutual agreement of the parties.

Arbitrations will be held at a mutually agreeable place and date on one of three dates submitted by the arbitrator. Such dates shall be submitted by the arbitrator within 10 calendar days after notification and shall be dates occurring between 21 and 45 calendar days after receipt of notification. (201)

Multiplant or national contracts sometimes stipulated that hearings were to be held in the location where the grievance arose. A few further provided for determination of a hearing place by the parties or an outside agency for disputes involving all locations.

. . . The hearing is to be held in the city where the division or plant is located. (188)

* * *

Local arbitrations shall be held in the city involved. National arbitrations shall be held at any place agreed on by both national parties or, if no agreement can be reached, at a place determined by the American Arbitration Association. (202)

The multiplant contract negotiated by the International Harvester Co. and UAW required the arbitrator to schedule the start of hearings for a specified

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number of cases, but provided for a recess after 5 days and set a minimum time limit (15 days) before resumption of hearings, to permit issuing of awards on cases fully heard. The location of hearings, stipulated in the contract, could be changed to other designated cities, if requested by either party.

> The permanent arbitrator will determine the date on which hearing of a specified number of cases will begin, providing, however, that hearings will not be scheduled to continue more than 5 consecutive workdays, and no hearings shall be scheduled on a Saturday, a Sunday, or a holiday enumerated in this contract, or other than normal business hours. In the event all of the specified cases are not heard during the scheduled hearings, the hearings shall be recessed after not more than 5 days of hearing for at least 15 calendar days but not less than such time as is necessary for the permanent arbitrator to issue awards in the cases fully heard prior to the recess, subject, however, to the exception provided in . . . The hearings will again be recommenced subject to the same provisions as listed above. In the event that a hearing date has been set for a subsequent date, such hearing date will be changed so that the hearing on the subsequent schedule will not commence until at least 3 calendar weeks have elapsed after the close of the recessed hearing. . . .

> Hearings will be held in Chicago, except that at the request of either party hearings will be held in either Indianapolis or Moline. However, no hearing will be divided between any two of such locations in any calendar week except by mutual agreement. The hearing room will be provided by the company. (76)

Evidence and Witnesses. Regulations governing admission of evidence, use of witnesses, and the arbitrator's authority to make investigations, were found in some contracts. The most common type was a broad clause, granting the arbitrator the power to call witnesses and request documentary evidence, as in the following:

> At the request of the impartial arbitrator, such witnesses, records, and other documentary evidence as may be required shall be produced. (158)

* * *

> It [board of arbitration] shall hear the matter in dispute . . . and shall call such witnesses and require furnishing of such information as it shall deem relevant to the case. (189)

Some provisions referred only to the submission of evidence by either party. A few of these placed limitations on the evidence to be submitted, or permitted the arbitrator to determine its relevancy.

> In all arbitrations the parties may present and the arbitrator shall consider particular facts, articles and paragraphs of this agreement and relief only if they were presented in the submittals and decisions in the first and second steps [arbitration third step]. (201)

* * *

> Either party shall be entitled to present its claims to the arbitrator in such manner as the party may desire, provided that the arbitrator may determine the relevancy of the evidence presented. (203)

Others stipulated that both parties were to have an opportunity to present evidence and supporting arguments:

> The board [arbitration board] shall afford to the company and the union a reasonable opportunity to present evidence and to be heard in support of their respective positions. (11)

One contract referred only to the introduction of new evidence by either party, in which case an extension of the hearing could be granted if requested.

> If during the course of the arbitration hearing, either party introduces any facts which were not introduced during any of the steps of the grievance procedure, the other party shall be granted an extension of the hearing upon request. (204)

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The arbitrator's right to examine the employer's records was stated in detail in some contracts, particularly in association agreements with permanent arbitration. The following example was excerpted from an association agreement in the men's clothing industry.

> In the event of any controversy, the employer's pertinent books, vouchers, papers and records shall be available for inspection by duly authorized representatives of the arbitrator, to be examined to determine whether there is full compliance with the terms of this agreement. Where the employer fails to make its pertinent books, vouchers, papers and records available to the arbitrator after having been directed to do so, the arbitrator may not only proceed legally to obtain some but may draw his own conclusions from such failure. (183)

Several large contracts, including the General Motors–UAW and IUE contracts, in addition to outlining the arbitrator's right to make investigations, hold hearings and examine witnesses, granted each party the right to cross-examine the witnesses.

> . . . The umpire may make such investigation as he may deem proper and may at his option hold a public hearing and examine the witnesses of each party and each party shall have the right to cross-examine all such witnesses . . . (55)

More detailed clauses, found in a few other large contracts, included procedural rules governing such items as submission of evidence, postponement of hearings to enable either party to secure additional information, cross-examination, the filing of post-hearing briefs, examination of exhibits by either party, or conduct of arbitrator's investigation.

> The hearing—at such hearing before the arbitrator, the parties may present oral and documentary evidence in support of their several contentions and each party shall at all times have the right of cross examination. The arbitrator may, upon the request of either party or upon his own motion, adjourn the hearing for a sufficient period to enable either party to furnish additional evidence, oral or documentary, which, in the opinion of the arbitrator is relevant to the issue or issues involved.
>
> Post-Hearing Briefs—Following such hearing, both parties shall have 10 working days within which to submit post-hearing briefs. Post-hearing briefs shall be confined to matters presented at the hearing. No reply briefs will be permitted except by mutual agreement of the parties. For good cause shown, the arbitrator may extend the time for filing briefs, but in any case the arbitrator shall notify the other party, who shall also be entitled to the benefit of such additional time. At the time each party submits its post-hearing brief to the arbitrator it shall enclose a copy for the opposite party. Upon receipt of a party's post-hearing brief or upon the expiration of the time limit for submitting same the arbitrator will forward the copy to the other party. (199)
>
> * * *
>
> Section 9. The arbitrator shall make such investigation as he deems proper and may examine the witnesses of each party. Each party shall have the right to cross-examine witnesses. When any investigation is conducted by the arbitrator, he shall be accompanied, upon his request, by at least one representative of the company and the union. . . .
>
> Section 11. Exhibits introduced by one party may be examined by the other party during the course of the hearing.
>
> Section 12. The arbitrator or the union may call any employee as a witness at any proceeding before the arbitrator, and the company agrees to release said witness from work if he is on duty.
>
> Section 13. Each party shall be responsible for the expense or expenses of any witness or witnesses it calls.
>
> Section 14. The arbitrator shall render his decision in writing not later than 5 days after he has completed his hearing on any grievance.
>
> Section 15. The decision of the arbitrator shall be final and binding upon both parties.
>
> Section 16. The compensations and expenses of the arbitrator shall be borne equally by the union and the company.
>
> Section 17. If the company and the union representatives are unable to agree on a person to act as the arbitrator within 5 days of the time of the first meeting as provided for in this article, the company and union representatives shall request the American Arbitration Association to submit the names of available arbitrators in accordance with their voluntary arbitration rules. (187)

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A few contracts referred only to the right of either party to call witnesses.

> Witnesses desired by either party shall be available as needed, but shall be restricted as to attendance to the time required for their testimony. (205)

By contrast, one contract prohibited either party or the arbitrator from calling or examining witnesses:

> Neither party . . . will call witnesses in any umpire hearing nor will the umpire interrogate witnesses at any time. (188)

Rules requiring witnesses to testify under oath, if requested to do so by either party, were found in a few contracts.

> Hearings before the arbitration board shall proceed by the hearing and taking of all relevant testimony and, at the request of either party, any or all witnesses may be required to testify under oath. (147)

Another contract stipulated that judicial rules of procedure were to be followed, but excepted technical rules of evidence followed in court proceedings.

> In general, judicial rules of procedure shall be followed at hearings before the arbitrator, but the arbitrator need not follow the technical rules of evidence prevailing in a court of law or equity. The complainant in every hearing before the arbitrator shall present a prima facie case. The arbitrator shall make his decision in the light of the whole record and shall decide the case upon the weight of all substantial evidence presented. (44)

Record of Proceedings. Rules pertaining to recording arbitration proceedings were sometimes specified. In most, such a record was optional with either party; usually, the expense incurred was to be paid by the requesting party, or shared equally if requested jointly. A few contracts specifically granted this option to the arbitrator or board, although it may be assumed that normally this option was implicit in the arbitrator's authority, and included in the expenses incurred by the arbitrator and shared by the company and union.

> Transcripts
>
> The company or the union may, at its discretion, prepare a transcript of the arbitration. Cost of the transcription shall be borne by the requesting party and such transcription shall be the exclusive property of the requesting party. If the company and the union prepare a joint transcript, they will then share the cost and the right to the transcript. (201)
>
> * * *
>
> The arbitrator or either party may, at his or their option, employ the services of a stenographer and/or reporter at all such hearings to make a record of the proceedings. (187)
>
> * * *
>
> If the company or the union elect to have made a record and transcript of any arbitration proceeding, where such transcript has not been deemed necessary by the arbiter, both parties shall be entitled to obtain copies of such transcript by ordering the same from the reporter at his own expense. (164)
>
> * * *
>
> . . . the compensation and expenses, if any, of the impartial arbitrator shall be shared equally by the company and the union. If both parties mutually agree on the presence of a court stenographer, the costs thereof shall be shared equally. (206)

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Some of the contracts which did not mention specifically the arbitrator's authority to request a record of the proceedings, stipulated that the cost of such records was to be shared by the company and the union.

> The expense of employing an arbitrator, and a court reporter if one is used, shall be shared equally by the company and the union. (38)

On the other hand, a few others banned any official record of the proceedings:

> No official stenographic record of the arbitration shall be made. (207)

Grievance Priorities; Scheduling of Cases. Grievances involving discharge and other cases of continuing liability were given priority in a limited number of contracts. However, many contracts, which did not stipulate that priority would be given, provided for expediting such cases by specifying shorter time limits for appeal and processing the dispute.[26]

Some of the clauses referred only to cases involving continuing liability, while others referred to discharge and continuing liability. Presumably, if retroactive pay were involved, discharge cases would be considered a continuing liability. A few contracts granted discharge cases first priority and continuing liability second.

> Grievances which are appealed to arbitration and which contain continuing liability shall be given priority over all other grievances in the arbitration procedure at that time. (208)
>
> * * *
>
> Schedule of Hearings.
>
> In the event that arbitration cases are pending, they will be scheduled on the basis of one arbitration per week on the date agreeable to the arbitrator. Arbitrations shall be heard according to the following priorities:
>
> (1) First priority shall be given to discharge cases;
> (2) Second priority shall be given to cases involving continuing liability;
> (3) Other cases shall be given priority according to the submittal date of the second step. (201)

Preferential treatment of discharge and other designated types of disputes also was indicated in a few agreements which limited the number of such cases which could be heard at a single hearing. No limits were placed on other types of disputes.

> Disputes Involving Technical Matters . . .
>
> In technical arbitration cases the arbitrator selected shall hear only a single technical arbitration matter in a single hearing, and no other matter may be submitted to him for determination as a result of said hearing other than the single technical arbitration case, except by mutual consent of the parties, In cases involving discharges the arbitrator may only hear a single discharge case and no other matter in a single hearing except by mutual consent of the parties; provided, however, this shall not apply where more than one person was discharged at the same time for the same cause and arising out of the same set of circumstances. In that instance, and only in that instance, may an arbitrator hear more than a single discharge case or a single case involving discharge in one hearing. It is the intent of the parties that each technical arbitration and each discharge case will be heard in a separate hearing and without other grievances being presented to the arbitrator at such time.
>
> Nontechnical Arbitration: Matters which do not involve technical matters shall be arbitrated under the voluntary labor arbitration rules then obtaining of the American Arbitration Association. (209)

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[26] See ch. 3, p. 31 and ch. 6, pp. 81–82.

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Restrictions on Arbitration of Similar Grievances. Some contracts prohibited arbitration of the same issue within a given period of time, usually 1 year.

> Any grievance submitted and determined in accordance with the procedure outlined herein, shall not be submitted again within 1 year from the date of its original submission. (210)

Another type of provision permitted withdrawal of grievances involving similar issues pending disposition of a representative case, as illustrated in the following excerpt:

> A grievance may be withdrawn . . . If the grievance is reinstated, the financial liability shall date only from the date of reinstatement . . .
>
> Where one or more grievances involve a similar issue those grievances may be withdrawn without prejudice pending the disposition of the appeal of a representative case. In such event the withdrawal without prejudice will not affect financial liability. (104)

A somewhat similar provision waived the time limit for submittal to arbitration of similar grievances, until after the decision on a representative grievance:

> Grievances similar or identical to other grievances on which arbitration has been requested, or which are in process of arbitration, shall not be deemed to be waived under this section unless unsettled and arbitration is not applied for within 30 days after the decision on a similar grievance arbitrated. (52)

Another provision permitted a request for disposition of disputes pending in the grievance procedure, based on issuance of an award covering similar issues.

> Following the issuance of any arbitration award, each local union or the company may identify grievances properly pending in the grievance procedure and request that such grievance be disposed of on the basis of the award (including the contractual interpretations upon which the award is based). Such request shall be made in writing by the chairman of the grievance committee or the works industrial relations manager at the works involved, as the case may be . . .
>
> If the request for settlement is denied in whole or in part, the grievance may be processed to arbitration in accordance with the time limits of this contract. (76)

Scheduling of Cases. General rules relating to scheduling of cases were occasionally included. Some clauses permitted referring more than one grievance to a single arbitrator or board, on mutual agreement of both parties:

> More than one grievance may be placed before a single board of arbitration, if the parties so agree. (211)

In others, either party had the option of demanding that the grievance be arbitrated separately, if more than one case was pending:

> If more than one issue or case is pending before one arbitration board, either party may demand that the issues be heard and adjudicated separately. (17)

A maximum number of grievances or issues to be arbitrated at one hearing was set in some instances:

> Not more than three grievances covering different subject matters may be arbitrated at one arbitration hearing. (203)

Conversely, a few clauses stipulated that no limit would be placed on grievances to be arbitrated at one time:

> It is agreed that no limit will be placed on the number of grievances submitted to an arbitrator for hearing at one time. (88)

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Another type of clause set a maximum on the number of cases submitted for arbitration in any year. The following clause, in addition, limited the number of cases the employer and the union could submit.

> It has been agreed that there shall be no more than 10 cases, in total, submitted to arbitration in any calendar year during the life of this agreement. Subject to the above, neither the union nor the association may elect in excess of five cases for submission to arbitration in any calendar year. (20)

Withdrawal of Cases. Rules covering withdrawal of cases after referral to arbitration were fairly common. Generally, withdrawal was permitted only by mutual consent of the parties.

> After a case on which the umpire is empowered to rule hereunder has been referred to him, it may not be withdrawn by either party except by mutual consent. (132)
>
> * * *
>
> After a case has been appealed to the arbitrator, it shall not be withdrawn by either party except by mutual consent. (187)
>
> * * *
>
> Nothing herein shall be construed as preventing the company and the /union/ from the settling by mutual agreement, prior to final award, any dispute or grievance submitted to arbitration hereunder. (212)

In some contracts, request for withdrawal had to be made prior to the start of hearings:

> At any time prior to the start of a hearing by the arbitrator, the contending parties may notify him that they have reached an agreement and in such event no hearing shall be held. (117)

Another procedural rule, found in a limited number of contracts, related to the failure of either party to participate in the arbitration proceedings. Under these clauses, the arbitrator was authorized to base his decision on the evidence submitted by the particpating party:

> . . . In the event of a wilful failure by either party to appear before the arbitrator after written notice of time and place of hearing, the arbitrator is hereby authorized to render his decision upon the evidence produced by the party appearing. (213)

Failure to participate in the selection of an arbitrator resulted in forfeiture of the defaulting party's case, under one contract:

> In the case the representatives of the company and the brotherhood are unable to reach agreement . . . they shall refer the dispute to a board of arbitrators . . . Each of the parties hereto shall select one . . . and two thus selected shall select the third member . . . In event the two members . . . fail to select a third . . ., the parties shall jointly request the AAA to appoint the third member, . . . In the event one of the parties refuses or fails to join in such request, the party in default shall forfeit its case. (214)

Although rules specifically involving failure to participate in the arbitration proceedings were not frequent, a number of contracts provided penalties for any violation of the contract. The penalties stipulated would be applicable in cases of nonparticipation in arbitration proceedings. In most instances, violations resulted in a waiver of the strike-lockout ban. [27]

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[27] Clauses relating to violation of the contract are discussed in ch. 7.

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Miscellaneous Procedural Rules. Other procedural rules mainly related to the time allotted for start of hearings and presentation of evidence, designation of spokemen, and order of presentation by the parties. Examples of the foregoing follow:

> The board shall convene within 10 days after its formation and shall, upon notice to both parties, hear the evidence relating to the controversy. Neither party shall consume more than 2 days to present its evidence. (215)
>
> * * *
>
> So that arbitration hearings can be expedited and conducted in an orderly manner, it is agreed that each party at arbitration hearings will designate one spokesman who will be responsible for the presentation of information and who will direct the order of the presentation of exhibits and testimony by individuals upon whom he may call. (216)
>
> * * *
>
> The party referring a grievance to arbitration shall have the obligation of going forward with its case before the other party shall be required to present its case or adduce any testimony. (217)

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Chapter VI. The Arbitrator's Award

The efficacy of grievance arbitration is founded on the pledge of the disputing parties that the arbitrator's award would be final and binding. Although this is implied in invoking arbitration, almost all agreements explicitly drive the point home. The finality of the award explains the stress put upon the impartiality of the arbitrator, care in his selection, and some of the other elements in the arbitration process previously discussed. Arbitrators usually have a good deal of leeway in reaching their decisions and in framing their awards; many agreements, however, set forth certain specifications or limitations binding upon the arbitrator. This chapter deals with the ways in which agreements treat the finality of the awards and the requirements put upon the arbitrator in connection with his awards.

Finality of the Award

Although a voluntary agreement to arbitrate in itself signifies the parties' willingness to accept a final and conclusive decision, 396 of the 416 contracts examined in detail explicitly affirmed that the arbitrator's award would be final and binding.

> The decision of the arbitrator shall be final and binding upon all parties to the dispute . . . (28)
>
> * * *
>
> An arbitration award shall be final and binding as to all issues involved in the grievance. (211)

Another six contracts expressly stated that the awards, otherwise final and binding, could be subject to court review. Three of these referred specifically to the validity of the award under State law; the other three referred to possible legal challenges. For example:

> Notice of any claims by either party that an arbitrator's award hereafter and hereunder, is invalid, in whole or in part, under the laws of the State of California, shall be served in writing upon the other party within 10 days after receipt of the written award in question, and thereupon, the party giving such notice shall proceed as promptly as possible with the institution of proceedings seeking to modify or set aside the award. The parties agree that if such notice is not given, such failure shall constitute a waiver of any legal objections to said award. (218)
>
> * * *
>
> The decision of the arbitrator, subject to any remedies of the parties at law, shall be final and binding. (69)
>
> * * *
>
> Submission of a grievance to arbitration pursuant to this article shall be treated as a waiver of legal or equitable proceedings with respect to such grievance, except such legal or equitable proceedings as may be necessary to secure the orderly application of the arbitration procedure provided for hereunder, to prevent interference therewith, or to obtain the enforcement, modification or vacating of any award issued hereunder . . . (177)

Presumably, the parties' rights to legal recourse might affect the finality of any award. A union pledge to discourage its members from appealing to a court or governmental agency was included in five contracts. One of these stated

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that the pledge was applicable only to decisions rendered in conformance to the arbitration provision.

> There shall be no appeal from the umpire's decision, which will be final and binding on the union and its members, the employee or employees involved and the corporation. The union will discourage any attempts of its members, and will not encourage or cooperate with any of its members, in any appeal to any court or labor board from a decision of the umpire. (132)
>
> * * *
>
> The union will discourage any attempt of its members and will not encourage or cooperate with any of its members in any appeal to any court or labor board from a decision of the arbitrator rendered in keeping with the provisions of this section. (138)

An explicit statement that the award was enforceable in court was included in 26 contracts:

> The decision, order, direction, or award of the impartial chairman shall be final, conclusive and binding and enforceable against any of the parties to this agreement in a court of competent jurisdiction. (219)
>
> * * *
>
> The decisions rendered by the arbitrator shall have the effect of an award and shall be enforceable under the Arbitration Law of the State of New York, or otherwise, entitling the entry of judgment in a court of competent jurisdiction against the defaulting party who fails to carry out or abide by the decisions . . .
>
> Neither party shall institute any proceedings in a court of law or equity other than to enforce the decision and award of the arbitrator . . . (200)

Where arbitration has been in effect for a period of time, a body of precedent may be established for guidance in determining similar grievances. However, most contracts were silent on the use of precedents. Only a few provided for the application of prior awards in subsequent grievances. The Western Union-Commercial Telegraphers' contract empowered the arbitrator to determine the applicability of a prior award on request of either party:

> In any arbitration hereunder, if either party presents the written award and opinion of an arbitrator rendered in a previous arbitration under this contract, and claims that such award and opinion are decisive of the issue in the pending case, the arbitrator is empowered to determine the applicability of such award and opinion to the pending issues. If he determines that the pending matter involves the same issues of fact, law, and contract principles, then such prior award and opinion shall be controlling on the same questions of principle and interpretations of contract. (220)

A few clauses specifically prohibited the use of an award as a precedent for subsequent grievances, as in the following:

> No /arbitration/ decision shall be used as a precedent for any subsequent case. (131)

Others stipulated that the award was not to constitute a precedent on renewal of the contract or negotiation of a new one. A few of these, in addition, stipulated that the award was binding for the term of the contract. The latter limitation also was expressed in some contracts which did not refer to the award as a precedent.

> The decision of the umpire shall be final and binding upon the company, the union and all employees concerned therein . . .
>
> It is agreed that a decision of an umpire as to the meaning and application of any provisions of this agreement shall not on renewal of this agreement or negotiation of a new agreement constitute a binding agreement . . . (221)
>
> * * *

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The final decision by the board of arbitrators shall be binding upon both parties during the term of this contract, but shall not constitute a binding precedent in connection with the negotiation of a new contract or the terms for the renewal or extension of this contract. (210)

* * *

The arbitration award shall be binding upon the company and upon the union for the duration of this agreement. (222)

In a few contracts, the award was subject to clarification or interpretation by the arbitrator on request of the parties. Usually it was stipulated that no change was to be made in the substance of the award.

Any dispute between the parties as to the interpretation or construction to be placed upon the award made as hereinabove provided for shall be submitted to the impartial arbitrator who made the award, who may thereupon construe or interpret the award so far as necessary to clarify the same, but without changing the substance thereof, and such interpretation or construction shall be binding upon all parties. (195)

* * *

If an award is made or received from an arbitrator and there is any question as to its interpretation, the parties agree to meet within 2 weeks following the receipt of the arbitrator's award in order to endeavor to come to some agreement as to the proper interpretation of the arbitrator's award. If, however, at the end of an additional 2-week period no agreement has been reached, the parties agree to refer back to the arbitrator and request a ruling on the points in dispute between them and this ruling shall become part of the award and also shall be final and binding upon the parties hereto. (223)

In certain circumstances, several contracts allowed an award to be subject to review, modification or reversal. One type of provision required review, and possible change, by the arbitrator, if both parties alleged an error of fact:

Decision Based on Agreement

The decision of the arbitrator must be in accord with this agreement and cannot add to, detract from or alter its terms.

Revision of Decision

If the company and the union agree, they may point out to the arbitrator in writing any error of fact found in the decision or on which the decision is based, or any ambiguity in the relief granted within 6 workdays after receipt of the decision. The arbitrator may then reverse, modify or affirm his original decision.

Finality of Decision

The decision of the arbitrator shall be final and binding upon the parties.

Termination of Authority

The arbitrator shall deal only with the matter which occasioned his appointment and his authority shall terminate on his final decision of that matter.

Attendance and Pay for Hearings

Only the following persons may attend arbitrations: The first step supervisor, four additional company representatives, the grievant, four local union representatives and witnesses and counsel for both sides. The following persons will be entitled to straight-time pay at their base rate for time spent in arbitration hearings: The grievant (group may not exceed five), union representatives who are not full time union employees and the union's witnesses not to exceed four. (201)

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Another type, found in some printing contracts, permitted appeal from the local arbitration decision to the International arbitration board, in cases of alleged irregularity:

> The decision of the arbitrator or board of three arbitrators shall be final and binding on both parties to this contract except on appeal to the international board of arbitration by either party in cases of alleged evasion, collusion, fraud, or bad faith, as provided in section — /Code of Procedure/. (64)

Finally, the parties themselves, by mutual agreement, could modify or reject the award, as in the following:

> Any award of the arbitrator may be modified or rejected by mutual written agreement of both parties. (220)

Where arbitration was to be conducted by a tripartite board, most contracts stipulated that the decision of a majority of the board, or of the impartial chairman if a majority decision could not be reached, was to be final and binding.

> The board of arbitration as then constituted shall consider the merits of the question or dispute and shall render a decision thereon. A decision made by a majority of the members of such a board of arbitration shall be binding upon the company and upon the brotherhood for the term of this agreement. (172)

* * *

> This panel of arbitrators will hear the case under the procedures provided below, and the decision in the case shall be that of the majority of the panel. If after reasonable time a majority decision is not possible, the decision of the third and neutral arbitrator shall be final and binding on the parties. (209)

* * *

> At the conclusion of the hearing of a case the chairman shall retire and the other members of the board shall go into executive session and immediately take up a consideration of the issues involved. If in executive session a tie vote occurs on any proposition, or if there are any differences, questions or propositions which do not receive the vote of four of the six original members of the board, the chairman shall be called in to cast the deciding votes on all unsettled questions or propositions. When the chairman is called in, the disputed points shall be fully discussed by all members of the board, and the several views of the six original members explained to the chairman. (64)

Some of the contracts, however, did not specify how the decision was to be determined, as in the following:

> . . . these three shall constitute an arbitration board, and their findings shall be final and binding. (224)

Specifications of the Award

Provisions regarding the form of the award frequently were included in the contracts. Most common requirements were that (1) the award be in writing, (2) the agreement provisions constitute the basis of the decision, and (3) the award state the reasoning or evidence upon which it is based. Some contracts also stipulated that copies of the award be delivered to the parties; some permitted oral awards by mutual agreement of the parties.

> The arbitrator shall render a written decision which shall include the award and an opinion stating the specific provision(s) of the agreement relied on, the issue(s), reasoning and facts upon which the decision is based. (201)

* * *

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Both parties agree to participate in the arbitration proceedings and the decision of the board, which shall contain a full statement of the grounds upon which the issue or issues have been decided, shall be final and union, the locals, their representatives, all employees and company agree to abide thereby. (225)

* * *

The award of the sole impartial arbitrator shall be in writing and identical copies shall be sent to both parties to this agreement. Oral awards shall be made only when mutually agreed upon by both parties. (191)

* * *

The decision of the arbitration board, which shall be by a majority of its members, shall be rendered in writing.

The arbitration board shall forthwith deliver a copy of its decision to the division, the union, and the employee either personally or by mail. (147)

* * *

Each case shall be considered on its merits and the collective agreement shall constitute the basis upon which decisions shall be rendered. (131)

Specifications occasionally related to other aspects, such as stipulating the amount of damages, rights of the parties, and prohibiting publication of the award except by mutual agreement:

The arbitrator shall submit a written determination of his award, including his findings of fact and conclusions of liability, if that is in question, amount of damage, if any, and the rights of the parties. (226)

* * *

The award of the impartial arbitrator shall not be published nor made public unless mutually agreed to by the representatives of both the company and the union. (191)

Retroactivity of the Award

Rules relating to retroactive application of the terms of the award were included in approximately 2 out of every 3 of the 416 contracts examined in detail. In most instances, retroactivity was applicable only in cases of unjust discharge and discipline, adjustment of rates on new or changed jobs, new incentives, or matters involving similar inequities. A few of the provisions related to all awards; a few others did not mention the scope of applicability.

Agreements often left the matter of retroactivity to the discretion of the arbitrator, usually with a limitation on the period of retroactivity. In some instances, no maximum was set on the period of adjustment or the amount of back pay.

The arbiters shall in their decision specify whether or not the decision is retroactive and the effective date thereto. (227)

* * *

The decision of the arbitrator may or may not include back pay, provided, however, that any back pay award shall not be in excess of 60 days or to the date of discharge or disciplinary suspension, whichever is less. (228)

* * *

If the impartial chairman finds that the employee was discharged without just cause, he shall order reinstatement and may require the payment of back pay in such amount as in his judgment, the circumstances warrant. (84).

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A few of these agreements implied that the determination of retroactivity was left to the arbitrator.

> . . . No grievance shall be subject to retroactive pay more than 30 calendar days prior to the date the grievance was written. (229)

Other contracts stipulated that the award was to be retroactive, and specified the retroactive period—from the time the disputed event occurred or the grievance was first submitted—or provided for payment to the grievant for all time lost.

> In any dispute involving a discharge a finding by the arbitrator that such discharge was without cause shall be retroactive to the date of wrongful discharge. (115)
>
> * * *
>
> The award in all arbitration cases shall be retroactive to the date when the grievance arose. (230)
>
> * * *
>
> If this decision [arbitrator's award] favors the employee, it shall be retroactive to the date on which the dispute was presented in writing by the union representative to management . . . (231)
>
> * * *
>
> In the event it should be decided under the rules of this agreement that an injustice has been dealt the discharged employee, the company shall reinstate such employee to his former position and pay full compensation for time lost. (90)

In some contracts, payment for time lost was limited to a maximum number of days prior to presentation of the grievance. This limitation was sometimes waived if the loss of compensation resulted from an error in company records:

> Any employee caused to suffer any loss of compensation through company action, shall, if upheld in grievance or arbitration proceedings . . . be reimbursed for such loss . . . provided that no adjustment of compensation shall be retroactive beyond 30 calendar days prior to the date the grievance was first submitted to the company in writing. The parties agree, however, that adjustment of compensation shall not be limited retroactively to 30 calendar days as described above when the loss of compensation results solely from clerical error as established by the company records. (232)

In a few of these contracts, the period specified was subject to change by the arbitrator or by mutual consent of the parties.

> All grievance settlements or arbitration awards shall be retroactive to the date of the occurrence unless otherwise mutually agreed or otherwise determined by the arbitrator . . . If a suspension or discharge should be revoked by the company or not sustained in arbitration proceedings, the company will reinstate the employee and pay full compensation at the employee's regular rate for the time lost except that a lesser settlement may be agreed to by the employee, grievance committee and company. (233)

Various other rules and guidelines found in some contracts included the following: Extension of the period was permitted under specific circumstances, usually because the grievant had no prior knowledge of the basis for a claim, or if a nonrecurring grievance was filed within a reasonable time; deductions from back pay were to be made for any other earnings received during lost time, or for unemployment compensation received; lost time was credited to the grievant, as time worked under the SUB and retirement plans and for vacation

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purposes. Included in the following illustrations are detailed clauses which provide different retroactivity rules for different types of issues.

No claims, including claims for back wages, by an employee covered by this agreement, or by the union, against the corporation shall be valid for a period prior to the date the grievance was first filed in writing unless the circumstances of the case made it impossible for the employee, or for the union as the case may be, to know that he, or the union, had grounds for such a claim prior to that date, in which case the claim shall be limited retroactively to a period of 30 days prior to the date the claim was first filed in writing. (104)

* * *

If the arbitrator shall award back wages covering the period of the employee's separation from the payroll of the employer, the amount so awarded shall be less any unemployment compensation received or compensation which the employee would not have earned had he not been suspended or discharged. (234)

* * *

All decisions of the arbitrator shall be effective as of the date the decision is rendered except as otherwise provided in this agreement.

Exceptions: "The employer shall notify the union in writing of his intention to install machinery of a type not previously used by the employer. In the event that the parties cannot agree upon such /new or revised/ rates within 8 weeks after the installation of the machinery, the matter shall be submitted to the arbitrator. The arbitrator's decision shall be rendered within 10 days after the hearing and shall be effective as of the date the machinery was put into operation."

. . . If the arbitrator finds that an employee was unjustly discharged, he shall order the employee reinstated with back pay for time lost. (175)

* * *

Except as specifically provided—/below/, retroactivity of grievance /and arbitration/ settlements . . . shall be limited to the date the grievance is presented in writing in the grievance procedure. Except:

(1) Where the circumstances made it impossible for the employee, or for the union, as the case may be, to know that he, or the union, had grounds for such claim prior to that date, or

(2) Where the grievance is not recurring in nature, (does not recur on subsequent days) and the grievance is filed in writing within a reasonable time, in which case the claim may be retroactive to a date not more than 60 days prior to the date that the grievance was presented in writing in the grievance procedure. Where no wage loss has been caused by the company's action complained of, the company shall be under no obligation to make monetary adjustments. . . .

. . . In the event that, as a result of such a grievance, the disputed production standard is found to be improper, the corrected production standard will be made retroactive to the time the time-study was actually started (the performance time of the first element of the timestudy is recorded) or the date of the establishment of such disputed production standard, whichever is earlier.

. . . Should it be decided under this article that there was not good cause for the disciplinary measure imposed and that such disciplinary measure should be set aside, or that the disciplinary measure taken cannot be deemed reasonably necessary and that such disciplinary measure should be modified, the company agrees to reinstate the employee in accordance with such decision and all hours he would otherwise have worked in accordance with such decision shall be counted as hours worked in determining credit units under the supplemental unemployment benefit plan, pension credits under the noncontributory retirement plan, and for vacation purposes. The company further agrees to pay any wages due the employee as a result of such decision in accordance . . . with the following:

All claims for back wages shall be limited to the amount of wages the employee would otherwise have earned from his employment with the company during the periods as above defined, less the following:

(1) Any unemployment compensation which the employee is not obligated to repay or which he is obligated to repay but has not repaid nor authorized the company to repay on his behalf.

(2) Any benefits or payments paid or payable to the employee under any supplemental unemployment benefits plan.

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(3) Compensation for personal services other than the amount of compensation he was receiving from any other employment which he had at the time he last worked for the company and which he would have continued to receive had he continued to work for the company during the period covered by the claim.

Wages for total hours worked each week in other employment in excess of the total number of hours the employee would have worked for the company during each corresponding week of the period covered by the claim, shall not be deducted. (199)

* * *

Awards by the arbitrator may or may not be retroactive as the equities or particular cases may demand, but the following limitations shall be observed in any case where the arbitration award is retroactive:

(1) The effective date for adjustment of grievances relating to:

(i) Suspension and discharge cases or cases involving rates of pay for new or changed jobs or new incentives shall be determined in accordance with the provisions of article __, suspension and discharge cases, and article __, wages, respectively, of this agreement.

(ii) Seniority Cases—not more than 5 days prior to the date the employee filed a written grievance in step 2 of the grievance procedure.

(iii) Rates of pay (other than new or changed jobs or new incentive), shift differentials, overtime, call-in pay, holidays, vacations, and guaranteed pay shall be the date of the occurrence or nonoccurrence of the event on which the grievance is based, but in no case prior to a date 30 days before such grievance shall have first been presented in written form in step 2 of the procedure.

(2) The effective date for adjustment of grievances involving matters other than those referred to in paragraph (i), (ii) and (iii) above, shall be no earlier than the date the grievance was first presented in written form in the second step of this article __, adjustment of grievances.

. . . Right of Modification of Discharge or Suspensions with Full or Partial Back Pay in Arbitration. In the event the suspension or discharge of an employee is referred to an arbitrator, he may order reinstatement and/or partial or full back pay. No back pay, however, shall be awarded or increased, due to any delay beyond the time limitations prescribed by this agreement for which either the employee involved or union is responsible.

. . . any employee shall claim that by reason of any change or other event specified in section __ of this article which shall occur, his incentive standard has become unreasonable and unfair, he may initiate a grievance in respect thereof, . . . If, in the determination of such grievance, such incentive standard shall be changed, the new incentive standard shall be established on the principle that the new incentive standard shall be fairly and reasonably designed to encourage production and to provide equitable incentive compensation over and above the standard hourly wage rate. In such a case, retroactive payment may not go back prior to the date the written grievance was filed.

. . . if the arbitrator shall decide that such new incentive standard is fairly and reasonably designed to encourage production to and provide equitable incentive compensation over and above the standard hourly rate, he shall dismiss the grievance. Otherwise, he shall direct that the new incentive standard be revised so as to provide equitable incentive compensation over and above the standard hourly rate so that such standard will be fairly and reasonably designed to encourage production, and such newly established incentive standard shall be retroactive to the date such change of event took place. (113)

Time Limits and the Award. Although nearly all contracts set a time limit on one or more stages of the arbitration process, only 23 of the 416 specified an overall time limit from exhaustion of the grievance procedure to rendering the decision. However, the time limit in some of the 23 was exclusive of the time during which an outside agency was to select an arbitrator, for which no limit was stipulated. In this study, the overall limit was determined by totaling the time allowed for each stage of the procedure, as the 23 contracts did not specify the overall time as such. Three weeks to 2 months were allowed in most of the 23 contracts. A few allowed between 2 and 3 months, and a few others ranged

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from 6 days to 1 year. Following are examples of clauses specifying overall time limits.

> In the event the grievance is not settled in step 3, then within, but not later than 10 calendar days after the company shall have rendered its decision the grievance may be submitted by the employee, or employees involved for arbitration, and shall be handled as follows: The complaint shall be referred in writing to a committee of arbitration which shall consist of three disinterested parties, one to be selected by the company, one to be selected by the union, and the third, serving as the impartial chairman, to be selected by the two thus selected. In the event of disagreement by the two on choice of the third member, within 5 calendar days, then the third shall be appointed by the Director of the Conciliation Service of the United States Department of Labor, or his successor. Each party shall set forth in writing its position on any matter of arbitration and submit it to the chairman prior to the hearing; provided, however, that either party may submit further statements and information during the hearing. The committee of arbitration shall promptly hear the matter and shall, within 30 consecutive days from the appointment of the impartial chairman, render its decision, which decision shall be final and binding upon the parties to this agreement. (90)

* * *

> Any grievance as to the meaning or application of the provisions of this agreement which is not satisfactorily settled under step 3A or 3B may be submitted by either party for arbitration upon written notice to the other party within 30 calendar days after receipt of the written answer.
>
> The company or the union shall request the Federal Mediation and Conciliation Service on all pending cases and within 10 calendar days after notice under paragraph A above, to furnish a panel of arbitrators which the company and the union shall separately rate and request that the Federal Mediation and Conciliation Service designate the arbitrator, selecting the arbitrator who receives the highest combined rating. Only one grievance may be heard before the designated arbitrator, except where the parties agree otherwise. . . .
>
> The decision of the arbitrator shall be final and binding on the company, the union, and the employees, except that the arbitrator shall have no power to add to, subtract from, or modify any of the terms of this agreement or any agreements made supplementary hereto. The arbitrator shall be asked to render his decision within 15 days after the case is presented for arbitration. (232)

* * *

> Cases not appealed to the umpire within 21 days from the date of a final decision given after review in an appeal committee meeting shall be considered settled on the basis of the decisions so given; . . .
>
> After a case has been appealed to the umpire . . . the briefs of both parties shall be filed with the umpire within 21 days from the date of receipt of the "Notice of Appeal."
>
> It shall be the function of the umpire after due investigation and within 30 days after submission of the case to him, to make a decision . . . (55)

A number of contracts which did not include an overall time limit set a limit on the time allowed to render a decision, either from the date of appointment of the arbitrator, from submission of the case, or from the close of hearings. Time limits in these provisions ranged from 1 week to 1 month. A few, however, stipulated that the validity of the award was not affected if the award was rendered later than the time allowed. One contract, in addition, permitted either party to request a new arbitrator if the decision was not rendered within the time stipulated. Shorter time limits were sometimes specified for discharge cases.

> The arbitrator's decision must be rendered within 30 days of presentation of the case to the arbitrator. Failure of the arbitrator to make his decision within the allotted time will permit either or both parties to the agreement to request that a new arbitrator be obtained in the manner prescribed in section __. If the arbitrator's decision is rendered later than 30 days, it is still binding upon both parties. (235)

* * *

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> The arbitrator shall decide any dispute submitted to him within 10 days after submission, except in all discharge cases where the decision shall be rendered within 1 week. The failure of the arbitrator to render a decision or award within the aforesaid prescribed time, shall not affect the validity of said award. (175)
>
> * * *
>
> The arbitrator shall render his decision not later than 10 days after he has completed his hearing on the grievance unless mutually agreed otherwise but in any event within 30 days. (236)
>
> * * *
>
> The arbitrator shall render a decision, in writing, to both parties within 15 days after the closing of the hearing . . . (237)
>
> * * *
>
> The impartial arbitrator shall mail a copy of his opinion to the secretary of the authority, to the union and, where the appeal is taken by an individual, to such individual, within 5 working days after the close of the hearing before him. (158)

Some contracts permitted extension of the time limit by mutual agreement of the parties:

> The process of arbitration shall be carried out as expeditiously as possible. The arbitrator shall render his decision in writing not later than 2 calendar weeks after he has taken the matter under submission, unless such time is extended by mutual agreement of the parties. (208)

Both the AAA and the FMCS specified 30 days to render the award after close of hearings or transmittal of final statements, unless otherwise agreed to or required by law.[28] This time limit would, of course, be applicable where provisions specified AAA or FMCS procedures.

Many other contracts which did not set time limits stipulated that the decision was to be rendered promptly.

> The arbitrator or arbitrators shall promptly make any investigation, hear such evidence and testimony, and consider such matters as may be material, and shall as promptly as possible reach a decision. (209)

Time Limits for Compliance With the Award. Only 18 of the 416 contracts specified a time limit for compliance with the award. The maximum time ranged from 1 to 30 days, most frequently from 1 to 3 days. A few other contracts merely stipulated that the award was to be complied with promptly, or speedily. Penalties for noncompliance were included in these contracts, as well as in others which did not specify a time limit for compliance. Most common were clauses permitting waiver of the strike-lockout ban; others permitted cancellation of the contract. A few also granted the company the right to discharge an employee who refused to comply with the award.

Illustrative clauses are included in the following chapter.

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[28] See appendix B.

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Chapter VII. Strike and Lockout Bans; Cancellation of Contract

Although the grievance and arbitration procedures outlined in collective bargaining contracts provide the basis for orderly and peaceful solution of disputes arising out of day-to-day operations, additional safeguards in the form of strike and lockout restrictions were incorporated in many contracts. These were designed not only as extra assurance that the grievance and arbitration machinery would be fully used, but also that no stoppages would occur during the term of the contract even where there was no agreement to arbitrate or where the dispute was not subject to the grievance procedure. The nature of no-strike-no-lockout pledges is examined in this chapter.

This chapter also traces the interrelationship between the grievance and arbitration procedures and strike and lockout bans and illustrates the circumstances in which strikes or lockouts may occur during the term of agreements without violating the agreements.

Many agreements include penalty clauses as a deterrent to strikes and lockouts which are in violation of the contract. These penalty clauses may apply to the individual worker, the union, or to the employer, and include disciplinary action of the worker, penalties imposed upon the union or union stewards, compensation by the company of lost wages because of illegal lockouts, and cancellation of the contract by the aggrieved party. A brief discussion of cancellation clauses is included in this chapter; other aspects of contract enforcement will be covered in a subsequent study in this series.

Many of the agreements examined specifically restricted strikes and lockouts; others mentioned only strikes. On the assumption that a no-strike pledge generally implies that the employer will not lock out his employees, the term "strikes" is used in this chapter to include lockouts.

Some of the contracts defined strikes to include work stoppages, interruption or impeding of work, sitdowns, slowdowns, etc. The lockout restriction was clarified, in some instances, by specifying that shutdowns due to shortages of materials, lack of business, production difficulties, etc. were not to be considered lockouts:

> Reduction in operations determined upon by the company by reason of lack of sales or reduced volume of sales shall not be a lockout under this agreement. (238)

No-Strike, No-Lockout Provisions

Restrictions on strikes and lockouts over disputes arising during the term of the agreement were found in 1,537 of the 1,717 contracts analyzed (table 7). Slightly less than half (757 of the 1,537) specified an absolute ban. The remainder of the provisions (780) mainly limited the strike ban to disputes subject to grievance and/or arbitration procedures; waived the ban for specific violations of the agreement; or permitted strikes after exhaustion of the grievance procedure. The latter group consisted of agreements with no provision for arbitration, or which provided for arbitration by mutual consent only.

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Table 7. Strike and Lockout Provisions in Major Collective Bargaining Agreements by Industry, 1961–62

(Workers in thousands)

Industry	Total with strike/lockout provision		Type of strike-lockout provision											
			Absolute ban during term of agreement [1]		Ban over issues subject to grievance arbitration [2]		Ban waived if agreement violated [3]		Strike/lockout permitted after exhaustion of grievance procedure [4]		Other [5]		No ban on strike/lockout	
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
All industries	1,537	6,829.4	757	3,019.7	351	1,981.9	333	1,386.0	92	434.2	4	7.7	180	609.1
Manufacturing	997	4,240.5	533	1,988.7	200	1,296.1	196	793.0	67	160.2	1	2.6	48	110.9
Ordnance and accessories	20	67.5	14	53.0	2	5.0	4	9.6	-	-	-	-	-	-
Food and kindred products	110	345.5	56	152.4	31	71.3	20	114.8	2	4.4	1	2.6	8	15.0
Tobacco manufactures	8	13.3	2	3.0	1	2.3	1	1.1	4	6.9	-	-	4	12.5
Textile mill products	29	78.5	16	35.5	7	14.1	6	28.9	-	-	-	-	2	2.7
Apparel and other finished products	53	456.2	12	187.9	1	2.6	40	265.7	-	-	-	-	-	-
Lumber and wood products, except furniture	12	22.6	4	8.0	1	1.4	2	6.0	5	7.3	-	-	1	3.5
Furniture and fixtures	17	30.8	7	11.9	4	5.9	6	13.0	-	-	-	-	2	2.4
Paper and allied products	56	122.9	52	117.3	-	-	3	4.4	1	1.2	-	-	1	3.0
Printing, publishing, and allied industries	31	63.3	15	26.8	8	10.2	8	26.4	-	-	-	-	3	7.6
Chemicals and allied products	50	96.8	36	67.5	4	5.9	7	13.1	3	10.4	-	-	3	5.2
Petroleum refining and related industries	15	49.2	8	24.9	5	21.0	2	3.3	-	-	-	-	-	-
Rubber and miscellaneous plastics products	29	126.2	13	29.9	11	63.6	5	32.8	-	-	-	-	-	-
Leather and leather products	18	65.7	10	34.2	2	11.0	6	20.5	-	-	-	-	1	1.3
Stone, clay, and glass products	38	102.6	23	66.5	7	17.1	6	16.8	2	2.3	-	-	3	7.8
Primary metal industries	108	621.0	64	509.7	27	76.3	5	9.8	12	25.3	-	-	5	6.6
Fabricated metal products	50	137.6	29	88.9	10	24.4	10	23.3	1	1.0	-	-	2	3.2
Machinery, except electrical	101	289.5	55	110.8	20	117.2	19	49.7	7	11.8	-	-	5	21.4
Electrical machinery, equipment, and supplies	101	414.8	46	133.7	20	177.7	24	81.2	11	22.3	-	-	4	6.3
Transportation equipment	116	1,061.8	56	303.8	33	660.8	8	29.7	19	67.5	-	-	4	12.7
Instruments and related products	24	53.5	12	17.6	4	6.4	8	29.5	-	-	-	-	-	-
Miscellaneous manufacturing industries	11	21.9	3	5.9	2	2.4	6	13.6	-	-	-	-	-	-
Nonmanufacturing	540	2,588.9	224	1,031.0	151	685.8	137	593.0	25	274.1	3	5.1	132	498.2
Mining; crude petroleum and natural gas production	16	235.3	10	204.9	4	27.9	2	2.6	-	-	-	-	2	2.5
Transportation [6]	99	629.4	33	182.5	24	65.9	31	147.9	11	233.1	-	-	16	51.8
Communications	24	207.5	15	124.0	7	80.6	2	2.9	-	-	-	-	56	293.8
Utilities: Electric and gas	73	185.2	54	144.2	15	32.6	3	7.2	1	1.3	-	-	6	9.9
Wholesale trade	12	22.5	3	7.2	4	5.0	5	10.3	-	-	-	-	1	2.7
Retail trade	99	271.5	46	121.6	18	43.0	34	105.8	1	1.2	-	-	7	18.4
Hotels and restaurants	31	156.6	12	41.4	11	55.8	8	59.4	-	-	-	-	6	14.7
Services	39	143.2	20	85.6	5	6.6	12	47.9	1	1.1	1	2.0	14	34.6
Construction	147	737.9	31	119.7	63	368.6	40	209.2	11	37.4	2	3.1	23	67.2
Miscellaneous nonmanufacturing industries	-	-	-	-	-	-	-	-	-	-	-	-	1	2.9

[1] Includes 6 agreements which provided for arbitration by mutual consent only.
[2] Includes 44 agreements which explicitly permit strikes over issues not subject to arbitration.
[3] Includes 5 agreements which provided for arbitration by mutual consent only.
[4] 57 of these agreements did not provide for arbitration; the remaining 35 provided for arbitration by mutual consent only.
[5] 2 of these agreements—1 multiplant and 1 multicompany—referred to strike/lockout provisions to be negotiated at local levels; 1 permitted strikes for any "justifiable" reason; the fourth banned strikes during the first year of a 2-year agreement.
[6] Excludes railroad and airline industries.

NOTE: Because of rounding, sums of individual items may not equal totals.

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With the exception of the communication industry, strike restrictions were found in the majority of the agreements in each industry, and were slightly more prevalent in manufacturing than in nonmanufacturing. In communications, only 24 of 80 agreements analyzed provided strike restrictions. Although nearly all of the agreements in this industry included grievance and arbitration machinery, only one-fourth of the agreements which provided for such machinery considered all disputes subject to arbitration.

Absolute Strike Ban. All of the 757 contracts with an absolute ban on strikes included grievance procedures, and all but 9 provided for arbitration (table 8). Even though 594 of these contracts excluded some issues from arbitration, strikes over the excluded issues also were prohibited by the absolute ban (table 9). All disputes were arbitrable under 154 contracts;[29] and only specific issues were excluded from arbitration in 59. Arbitration was limited to disputes involving interpretation, application, or violation of the contract in 529; and further exclusions were listed in 6.

Some of the absolute "no-strike" clauses were very brief:

> There shall be no strikes, lockouts, or stoppages of work during the period of this agreement. (239)

The provisions were often more detailed, and explicitly prohibited any kind of work interruptions, and, in many instances, prohibited encouragement of such action by the union.

> There shall be no strikes, work stoppages, or interruption or impeding of work. No officer or representative of the union shall authorize, instigate, aid, or condone any such activities. No employee shall participate in any such activities. . . .
>
> There shall be no lockouts. (240)
>
> * * *
>
> During the life of this agreement, the union agrees that there shall be no strikes, slowdowns, or work stoppages for any cause whatsoever. The company agrees that there shall be no lockout for any cause whatsoever. . . . (72)

Absolute strike ban provisions were incorporated in contracts negotiated by many unions. The following tabulation lists those unions which have negotiated at least 10 major contracts with an absolute ban, accounting for one-half or more of the major contracts negotiated by each union.

Union	Total agreements examined	Total agreements with absolute strike or lockout ban
Steelworkers	120	98
Machinists	94	47
IBEW	92	56
IUE	47	25
Oil, Chemical	31	20
Textile Workers Union	24	13
Mine Workers (Dist. 50)	20	15
Building Services	19	11
Papermakers	17	15

[29] Six of the 154 contracts provided for arbitration by mutual consent only.

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Table 8. Strike and Lockout Provisions in Major Collective Bargaining Agreements With and Without Grievance and Arbitration Provisions, 1961–62

(Workers in thousands)

Strike/lockout provisions	Total		Grievance procedure		No grievance procedure		Arbitration		No arbitration	
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
Number studied	1,717	7,438.4	1,697	7,387.7	20	50.8	1,609	7,172.1	108	266.3
With strike/lockout ban	1,537	6,829.4	1,536	6,827.4	1	2.0	1,466	6,662.1	71	167.3
Absolute ban	[1] 757	3,019.7	[1] 757	3,019.7	-	-	[1] 748	3,003.6	9	16.1
Limited ban	780	3,809.7	779	3,807.7	1	2.0	718	3,658.5	62	151.2
Banned over issues subject to grievance-arbitration	[2] 351	1,981.9	351	1,981.9	-	-	349	1,978.6	2	3.3
Banned waived if agreement violated	[3] 333	1,386.0	[3] 333	1,386.0	-	-	[3] 331	1,382.9	2	3.1
Strike/lockout permitted after exhaustion of grievance procedure	[4] 92	434.2	[2] 92	434.2	-	-	[4] 35	291.4	57	142.8
Other	[5] 4	7.7	3	5.7	1	2.0	3	5.7	1	2.0
Without strike/lockout ban	180	609.1	161	560.3	19	48.8	143	510.0	37	99.1

[1] See footnote 1, table 7.
[2] See footnote 2, table 7.
[3] See footnote 3, table 7.
[4] See footnote 4, table 7.
[5] See footnote 5, table 7.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table 9. Strike and Lockout Provisions in Major Collective Bargaining Agreements by Type of Dispute Subject to Arbitration, 1961–62

(Workers in thousands)

Provisions	Total		Absolute ban on strike/lockout [1]		Ban on strike/lockout over issues subject to grievance arbitration [2]		Ban waived if agreement violated [3]		Strike/lockout permitted after exhaustion of grievance procedure [4]		Other [5]	
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
Total with strike/lockout provisions	1,537	6,829.4	757	3,019.7	351	1,981.9	333	1,386.0	92	434.2	4	7.7
Total with both arbitration and strike/lockout provisions	1,466	6,662.1	748	3,003.6	349	1,978.6	331	1,382.9	35	291.4	3	5.7
Subject to arbitration:												
All disputes	315	1,519.1	154	638.0	64	252.9	83	385.3	14	243.1	-	-
All disputes, with specific exclusions	88	464.0	59	217.9	18	202.4	11	43.8	-	-	-	-
Interpretation, application and/or violation of agreement	870	3,204.7	529	1,918.7	163	594.4	165	661.1	11	27.5	2	3.1
Interpretation, application and/or violation with specific exclusions	191	1,465.7	6	229.1	103	923.0	72	292.8	10	20.9	-	-
Other	2	8.6	-	-	1	6.0	-	-	-	-	1	2.6
Total with no arbitration, but with strike/lockout provisions	71	167.3	9	16.1	2	3.3	2	3.1	57	142.8	1	2.0

[1] See footnote 1, table 7.
[2] See footnote 2, table 7.
[3] See footnote 3, table 7.
[4] See footnote 4, table 7.
[5] See footnote 5, table 7.

NOTE: Because of rounding, sums of individual items may not equal totals.

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Reflecting the problem of agreement compliance and enforcement among large numbers of small employers, only 30 percent of the multiemployer contracts covered in this study stipulated an absolute ban on strikes and lockouts as against 60 percent of the single-employer agreements.

Limited Strike Bans. All but 2 of the remaining 780 contracts with strike restrictions limited the prohibition in some manner short of an absolute ban. The two agreements, one multiplant and one multiemployer, gave no details on such restrictions, but referred to strike and lockout provisions to be negotiated at the local level. Of these 780 agreements, 62 failed to provide for arbitration (table 8).

The strike ban in 351 agreements applied to disputes subject to grievance and/or arbitration. Only two contracts in this group did not provide for arbitration. In 64, all disputes were subject to arbitration, hence the strike ban in these was equivalent to a no-strike pledge for the term of the agreement (table 9). The remaining 285 contracts in this group limited the disputes that were subject to arbitration, thereby presumably limiting the strike prohibition. Although relatively few (44) of these explicitly stated that strikes would be permitted over disputes not subject to grievance and arbitration procedures or disputes subject to arbitration by mutual consent only, the right to strike over excluded disputes was not explicitly withdrawn in the remaining contracts. Explicit permission to strike over excluded issues is contained in the following clauses:

> As to any disputes subject to arbitration, the union agrees that it will not cause nor will its members take part in any strike or work stoppage, and the company agrees that it will not cause any lockout.
>
> As to any dispute not subject to arbitration, no strike, work stoppage, or lockout will be caused or sanctioned until negotiations have continued for at least 5 days at the final step of the bargaining procedure described in article __. Thereafter any strike which occurs under such circumstances shall not be deemed to be a violation of this agreement, which shall continue to remain in full force notwithstanding such strike. (184)
>
> * * *
>
> There shall be no interruption or impeding of the work, work stoppage, strike, slowdown, or lockout during the term of this agreement except that the union shall have the right to strike only to resolve a grievance concerning a new or changed incentive standard or the day or base rates for a new or changed job classification in the event it strictly complies with the following procedure:
>
> (a) The grievance shall have been timely filed and processed through the third step of the grievance procedure in article __.
>
> (b) Within 30 days from the receipt of the company's answer in the third step (or, in case such answer is not rendered within the time limit, from the date such answer was due), the union shall notify the company in writing that Local __ and the international union have each authorized (as provided in the union constitution) a strike of all employees in the unit as defined in section __ hereof concerning such grievance and fixing a time not earlier than 5 working days or later than 10 working days after the receipt by the company of said notice on which said strike will begin. (241)

The following is a typical clause which appears to open the possibility of a strike over disputes excluded from grievance and/or arbitration procedures. This clause was taken from a contract which extended the grievance procedure to all grievances, but limited arbitration to grievance disputes involving interpretation and application of the contract.

> Should any grievance or misunderstanding arise, an earnest effort shall be made to settle the matter promptly . . .
>
> If no satisfactory settlement is reached within a reasonable time and if the grievance relates to the interpretation or application of the provisions of this agreement, it shall be referred, at the request of either party, to arbitration. . . .
>
> During the life of this master agreement, no strike in connection with disputes arising hereunder shall be caused or sanctioned in any of the plants or other appropriate bargaining units covered by this agreement by the union or by any members thereof, and no lockouts shall be ordered by the company in connection with such dispute. (242)

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In 92 of the 780 contracts the strike ban was limited by prohibiting strike action only until the grievance procedure was exhausted, after which strikes were permitted. These contracts either did not include arbitration (57) or provided for arbitration by mutual consent only (35). In the latter, strike action could be taken if either party did not wish to refer an unsettled dispute to arbitration after exhaustion of the grievance machinery. Both types of clauses provide assurance that the full grievance machinery will be utilized in an attempt to resolve disputes.

> Pending a settlement of any dispute there shall be no work stoppage nor shall there be any work stoppage for any cause or dispute not brought before the joint conference committee /grievance committee/. If settlement cannot be reached within 1 week after the first meeting, then either party is free to take other action. (243)

Another 333 contracts, which banned strikes for the term of the contract, or over disputes subject to grievance and/or arbitration, or over other specific issues, made the ban contingent on compliance with some or all provisions of the contract.[30] Waiver of the strike ban because of any contract violations was permitted in almost 15 percent of the 333:

> Further, although it is the desire of the parties to have all alleged violations of the agreement referred to the arbitration board for its consideration and decision before any other action be taken, the union shall have the right whenever, in its opinion, an employer violates the agreement, to take whatever immediate action it deems necessary even though such action be taken prior to the filing of a grievance or even while a grievance is pending. The taking of action by the union is permitted despite any other article and section of this agreement, . . .; the taking of action by the union shall not deprive the employer of its right to have any grievance filed relating to such alleged violation of the agreement by the employer processed for consideration and determination of the arbitration board.
>
> Further, it is understood and agreed that where a violation of the agreement has been found by the arbitration board to have been committed by an employer, the union shall have the right, in addition to and regardless of any action taken by the arbitration board against the defaulting employer, to avail itself of any rights which it may have arising out of a violation of this agreement by an employer, including the right to take economic action regardless of anything contained in this agreement. (244)
>
> * * *
>
> Neither while a controversy is under submission as provided for in the grievance procedure, nor during the pendency of an arbitration, nor following one, nor while this contract shall be in force and neither party has been determined to be in violation of any provision hereof shall there be resort to a strike or lockout. (245)

Specific violations were cited in the remaining provisions. Approximately 70 percent of the 333 contracts cited failure to use or comply with the grievance or arbitration procedure, or to abide by an arbitration award.

> Strikes and Lockouts
>
> The union agrees that there shall be no authorized strike, picketing, slowdown, stoppage, or other drastic action during the life of this agreement unless the company shall refuse to comply with the grievance /and arbitration/ procedure set forth in articles __ and __ of this agreement.
>
> The company agrees that there shall be no lockout during the life of this agreement, unless the union or its members refuse to comply with the grievance procedure as set forth in articles __ and __ of this agreement. (238)
>
> * * *
>
> It is further agreed that the union and the employees shall have the right to strike and the employer shall have the right to lockout respectively, in the event that either party, as the case might be, shall fail, neglect or refuse to abide by or perform as required by an arbitrator's award, within 5 days of its rendition. (246)
>
> * * *

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[30] Five of these contracts provided for arbitration by mutual consent only; two did not provide for arbitration.

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In the event that the company or the union shall fail or refuse to arbitrate any grievance or dispute which is subject to arbitration by the terms of this agreement, or should refuse to abide by the award of the arbitrators within 3 days after its issuance, the union shall have the unqualified right to strike and the company shall have the unqualified right to lock out the employees in addition to whatever other legal remedies either party may have; . . . (247)

* * *

In the event a member of the association refuses to abide by a decision of the impartial chairman, the union shall give the association notice in writing of the refusal of its member to comply. If at the expiration of 48 hours after such notice has been given by the union to the association, the violating member of the association still refuses to comply with the decision of the impartial chairman, the union may at its option consider all its obligations under this contract terminated with respect to the violating member of the association.

In the event a member of the union refuses to abide by a decision of the impartial chairman, the association shall give the union notice in writing of the refusal of its member to comply. If at the expiration of 48 hours after such notice has been given by the association to the union, the violating member of the union still refuses to comply with the decision of the impartial chairman, the employer may at his option discharge such a member of the union from the job. (248)

* * *

. . . it is agreed that the union and its members, individually and collectively, will not, during the term of this agreement, tolerate, cause, encourage, support, permit, or participate or take part in any strike, picketing, sitdown, stayin, slowdown, or other curtailment or restriction of production or interference with work in or about the company's premises, but will avail itself exclusively of the procedure herein provided for the settlement of grievances, unless the company refuses to abide by an arbitration award. (249)

More than one specific exemption was cited in many of the contracts, including a number of provisions which waived the strike ban because of grievance and arbitration violations. Most prevalent of the reasons cited for such exemptions were the failure of the employer to fulfill health and welfare plan obligations and to make proper wage or related payments.

During the term of this agreement the employer agrees that it will not authorize any lockout of employees and the union agrees that they will not authorize, aid or encourage any slowdown, strike or stoppage of work; provided, however, that the provisions of this section shall not apply (a) in the event the employer is delinquent at the end of a monthly period in the payment of the contributions required under article __ /Health, welfare, and pension plans/ hereof and after the proper official of the local union shall have given 72 hours written notice to the employer of such delinquency in such payments, or (b) in the event the employer refuses to pay an employee in accordance with the basic wage rate set forth in article __ or (c) in the event a company refuses to pay an owner-operator in accordance with the minimum percentage set forth in section __ of article __. (250)

* * *

During the term of this agreement there shall be no stoppage or strike by the union or the workers of the employer for any reason or cause except in cases where the employer fails or refuses to pay wages, vacation, holiday, or overtime or call-in pay on their due dates; or fails or refuses to make payments to the funds or fails or refuses to file reports therewith as provided in articles __ and __ hereof; or fails or refuses to comply with decision of the arbitrator in connection with any claim, grievance, controversy or dispute, as provided in the next succeeding article; or where the workers have stopped work by order or direction of the parent organization (or a council affiliated therewith) of the union. Such stoppages are hereby expressly authorized. (200)

Among other exemptions which lifted the strike ban were the following:

Violation of the union security provision
Changes without union approval:
  Addition of new machines
  Establishment of new rates on new work
  Adjustment of job classification
Violation of shop regulations
Unfair labor practices, as determined by outside parties
Employer insistence on workers disregarding picket line
Employment of nonunion contractors (apparel industry)

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Waiver clauses were most prevalent in association contracts in industries such as apparel, transportation, retail trade, and construction.

The four remaining provisions did not fall into any of the above categories. Two agreements mentioned earlier—one multiplant and the other multiemployer—stated that strike and lockout provisions would be negotiated at local levels. One agreement permitted strike action for any "justifiable" reason; and the other prohibited strikes during the first year of a 2-year agreement. The latter contract did not provide for arbitration.

No Ban on Strikes. Of the 180 contracts which did not contain any explicit strike restrictions, 161 provided grievance procedures and 143 also included arbitration (table 8). Nineteen agreements, all multiemployer, failed to provide for grievance or arbitration procedures.

Since arbitration is a mechanism through which disputes may be settled without strikes, the scope of arbitration in the 143 contracts, as shown in the following tabulation also may define the area of strike prohibition. Only 25 contracts guaranteed arbitration for any and all disputes.

	Agreements	Workers (in thousands)
Total	180	609.1
With grievance and arbitration provisions	143	510.0
Type of disputes subject to arbitration:		
All disputes	25	81.8
All disputes, with specific exclusions	5	11.2
Interpretation, application and/or violation of agreement	48	131.7
Interpretation, application, and/or violation of agreement, with specific exclusions	64	283.8
Not clear	1	1.8
Without arbitration provision	37	99.1
With grievance procedure	18	50.3
Without grievance procedure	19	48.8

NOTE: Because of rounding, sums of individual items may not equal totals.

Strikes and Lockouts During the Term of the Agreement

One of the purposes of this study, as explained in chapter 1, was to determine how strikes or lockouts may occur during the term of agreements without violating the agreements. A rigorous examination of the scope of grievance procedures in a previous report in this series,[31] and of the scope of grievance arbitration and no strike and lockout pledges in this report, applied to all 1,717 major agreements, makes feasible a distinction between agreements that prohibit strikes and lockouts without reservation and those that leave open the possibility of a strike or lockout because of explicit limitations on the scope of the dispute-settling machinery.

This analysis deals with the letter, not the spirit, of the agreements. Implicit in all collective bargaining agreements is the hope that strikes or lockouts during the agreement term can be avoided. Agreements may contain provisions which appear to limit the scope of dispute-settling machinery. Tests

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[31] See BLS Bulletin 1425-1, op. cit.

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of these limitations may never arise, since disputes still may be resolvable through the exercise of good judgment before direct action is undertaken. Nonetheless, stoppages during the term of agreements occur frequently enough to warrant this scrutiny of agreement language.

Despite the widespread prevalence of grievance and arbitration procedures and no strike-lockout pledges, a strike not constituting a violation of the letter of the agreement is possible in about half of all major agreements:

How Strikes May Occur During the Term of Agreements Without Violating the Agreements

(1,717 major agreements)

Strikes banned	Strikes possible
Absolute ban on strikes (757)	
Not all possible disputes subject to grievance and/or arbitration (594)	
No arbitration (9)	
All disputes subject to arbitration (154)	
Limited ban on strikes (780)	
All disputes subject to arbitration (64)	Strikes banned over disputes subject to arbitration but not all possible disputes subject to grievance and/or arbitration (285)
	Arbitration provided but strike ban waived if agreement violated (331)
	Arbitration required mutual consent (35)
	No arbitration (62)
	Other (3)
No ban on strikes (180)	
All disputes subject to arbitration (25)	Arbitration provided but not all possible disputes subject to grievance and/or arbitration (118)
	No arbitration (37)
Total agreements --------- (846)	---------- (871)

Cancellation of the Contract

Following is another explanation of how strikes or lockouts may occur during the term of agreements without violating the agreement.

Clauses which permitted termination of the contract in the event of contract violation were incorporated in 101 contracts, covering nearly one million workers. The meaning of contract cancellation clauses is difficult to assess in relation to the previous discussion. Presumably, if a union has grounds to cancel, and does cancel, the contract of an employer member of an association agreement, or even perhaps of the association as a whole, a shutdown is almost certain to follow. This also may be the case when a single-employer contract is canceled by the union. On the other hand, in the event of employer cancellations the results are much less certain.

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Violation of the strike or lockout clause was specified in nearly half of the cancellation clauses, with some of the concentration in transportation equipment and apparel contracts. A few clauses were found in electrical machinery, rubber, communications, utilities and service industries; the remaining were scattered through various other industries, mainly manufacturing.

Frequently, the contracts set a time limit after the "illegal" strike or lockout occurred before the contract could be terminated. This was typical in the transportation equipment industry, as illustrated in the following excerpt from the General Motors agreement:

> During the life of this agreement, the corporation will not lock out any employees until all of the bargaining procedure as outlined in this agreement has been exhausted and in no case on which the umpire shall have ruled, and in no other case on which the umpire is not empowered to rule until after negotiations have continued for at least 5 days at the third step of the grievance procedure. In case a lockout shall occur the union has the option of cancelling the agreement at any time between the 10th day after the lockout occurs and the date of its settlement.
>
> . . . In case a strike or stoppage of production shall occur, the corporation has the option of cancelling the agreement at any time between the 10th day after the strike occurs and the day of its settlement. (55)

In the apparel industry, cancellation because of violation of the strike or lockout clause generally was limited to failure of the union in its obligation to end any work stoppage, and of management in its responsibility for ending a lockout. In either case, the existence of a substantial violation was to be determined by the impartial chairman before the contract could be terminated:

> Should the employees in any shop or factory cause a stoppage of work or shop strike, or should there result in any shop or factory a stoppage of work or shop strike, notice thereof shall be given by the association to the union. The latter obligates itself to return the striking workers and those who have stopped work, to their work in the shop within 24 hours after the receipt by the union of such notice, and until the expiration of such time, it shall not be deemed that the striking workers have abandoned their employment. In the event of a substantial violation of this clause on the part of the union, the association shall have the option to terminate this agreement. The existence or nonexistence of such substantial violation shall be determined by the impartial chairman, as constituted under this contract, on all the facts and circumstances. The union agrees that if the striking workers fail to return to work within the stipulated time, it will forthwith state in writing and in the appropriate press or otherwise, that there is not a strike in or against such shop in which the work has been stopped and that the shop is in good standing with the union and entitled to all the rights, benefits and privileges provided for by the terms of this contract. Should any member of the association cause a lockout in his or its shops or should there result in any shop or factory a lockout, notice thereof shall be given by the union to the association. The association obligates itself, within 24 hours after the receipt of such notice, to terminate the lockout and to cause its members to reemploy the workers, and until the expiration of such time, it shall not be deemed that the employer has forfeited his rights under the agreement. In the event of a substantial violation of this article on the part of the association, the union shall have the option to terminate this agreement. The existence or nonexistence of such substantial violation shall be determined by the impartial chairman on all the facts and circumstances. (251)

A few contracts did not specify a time limit before termination of some or all clauses of the contract:

> Stoppages of Work. The unlicensed personnel and the union agree that during the life of this agreement and for any period of negotiation for its renewal, and during any period of arbitration . . . Members of the union participating in any such stoppage of work shall be subject to discharge by the company. A violation of this provision shall render this agreement null and void at the option of the company.
>
> Lockouts. The company agrees that during the life of this agreement and any period of negotiation for its renewal there shall be no lockouts of the unlicensed personnel. However, this section shall not prevent the orderly termination by the company of the employment of any or all of the unlicensed personnel on any vessels as and in the manner provided by the shipping articles nor shall it prevent the discharge of any member of the unlicensed personnel for just cause. A violation of this provision shall render this agreement null and void at the option of the union. (252)

* * *

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During the life of this agreement, there shall be no suspension of work, strikes, sitdowns, walkouts, slowdowns, or picketing by the union. During the life of this agreement, the company agrees there shall be no lockouts.

In the event that the union or the company shall violate the undertaking set forth in the preceding paragraph of this article, the company or the union may, in addition to any other remedies available to it, by written notice addressed to the other, terminate this agreement in whole or in part, as it may see fit. (253)

Over 50 contracts permitted cancellation because of other contract violations. In addition, a few of those which specified strike or lockout violations also permitted cancellation for other contract violations:

Stoppage of Work

The union, in its own behalf and in behalf of the employees, agrees that during the life of this agreement, as well as during the pendency of any proceedings before the adjustment committee or board of arbitration . . . there shall be no strikes, "sitdowns," sympathy strikes or stoppage, picketing or cessation of work by the union or the employees . . . Upon the violation of this section, by the union or any of the employees, this agreement may be terminated with respect to and by all or any of the employers.

Lockouts

The employers agree that during the life of this agreement, . . . there shall be no lockouts of the employees, and upon violation of this provision by the employers, this agreement may be terminated by the union. . . .

Failure to Pay Agreed Wage Scale

If the employers deliberately breach their undertaking to pay the scale of wages set forth herein, the union shall have the option to consider this contract null and void provided it serves 3 days' written notice upon the employers of such intention.

Delinquent Employer. If an employer is delinquent for 30 days in the payment of the contributions required of it under paragraphs __ and/or __ of this section, the union may terminate this agreement, as to the delinquent employer, by mailing each employer a notice to that effect by registered mail, which notice shall specify the date as of which the contract shall be so terminated. (254)

Violations frequently cited were the failure to exhaust the grievance and/or arbitration procedure, or to abide by the awards:

Annulment Under Certain Conditions

A refusal by the company or the union to exhaust the remedies provided by this agreement for the final settlement of grievances through arbitration shall, at the option of the other party to the agreement, annul this agreement, upon written notice. (255)

* * *

There shall be no suspension of work when any such arbitrable dispute arises, and while it is in process of adjustment of arbitration or thereafter. In the event that either party refuses, after notice, to proceed to arbitration, or fails to abide by the decision of the arbitrator, the other party, in addition to any rights or remedies at law, may terminate this agreement. (256)

Some of the contracts set a time limit for compliance before cancellation could be effected. A few agreements included the option to strike or terminate the contract:

The unions and the employers agree that there shall be no strike or cessation of work or picketing on the part of any employer's employees covered by this agreement, and no lockout on the part of any employer during the term of this agreement. It is understood that this section does not deprive a union of its right to terminate this agreement or strike with respect to any employer who fails to comply with any decision of any board of arbitration established hereunder within 5 working days after such decision of a board of arbitration or within such additional time as the board may allow. (257)

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Violation of the health and welfare or pension provisions was cause for termination under several contracts. In most instances, the violation was limited to failure to make proper contributions to the fund:

> Trust Contributions. Individual employers who fail to remit regularly to any of said trust funds shall be subject to having this agreement terminated upon 72 hours' notice in writing served by the union, provided that the individual employer fails to show satisfactory proof that delinquent payments have been paid to said trusts. If during the 72-hour period the employer pays all monies due said trust funds, the employer shall then be on probation for 6 months. If during such period of probation the employer becomes delinquent with his payments to any of the said trust funds, the union may terminate the agreement immediately upon the serving of written notice of termination on the employer. (258)

A few included any violation of the welfare plan as grounds for cancellation:

> It is further agreed that the union shall have the right to declare this agreement terminated as to any employer who fails to make payments into the health and welfare fund or into the pension fund, or in any manner fails to abide by the terms of the trust agreement governing . . . health and welfare trust fund No. 2 or the terms of the trust agreement governing . . . pension and disability trust fund No. 2, upon giving such employer 48 hours' written notice to that effect. A copy of such notice shall also be served on the construction contractors' council. (259)

Other grounds for cancellations included failure to make wage payments; granting by the union of more favorable terms to other companies; requiring employees to handle struck work; and violation of the union security provision, of established working hours, or of work rules.

Most of these agreements specified one or two causes for cancellation. An exception was found in a few electrical contracting association agreements with the International Brotherhood of Electrical Workers. These agreements, in addition to specifying as causes for cancellation default in wage or employee benefit payments, rebating of wages, and subletting of labor services to any workman, included violation of the international union's work rules, as follows:

> . . . 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, or the employment of workmen in any manner other than provided in article __ section __ will be sufficient cause for cancellation of this agreement, after the facts have been determined by the international office of the union. (260)

Two other exceptions permitted cancellation for any substantial or for any deliberate violations, after proper investigation. Some agreements, however, excluded work assignments involved in jurisdictional disputes as a cause for cancellation.

> In the event that either of the parties or any employer shall claim a termination of this agreement by reason of any alleged substantial violation of this agreement, the same shall be submitted to the board of arbitration for its determination and decision as to whether or not the facts and circumstances constitute a substantial violation of this agreement, entitling any of the parties or any employer to terminate this agreement. (261)
>
> * * *
>
> Continued deliberate violations of this agreement, other than work assignments involved in jurisdictional disputes, unless corrected or discontinued, will be sufficient cause after proper investigation and approval of the international president for the cancellation of the agreement between the violating employer and the international brotherhood. (262)

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Chapter VIII. Arbitration of New Contract Terms

One aspect of labor-management relations that has not changed significantly during the postwar period is the reluctance of unions and managements, either separately or together, to entrust the determination of new contract terms to arbitrators. Less than 2 percent of the 1,717 major agreements studied provided for the arbitration of disputes over the terms of new contracts. In 1949 and 1952, according to two earlier Bureau studies,[32] the proportion was approximately 2 percent. In the instance of disputes arising out of the permissible reopening of wage or other economic issues during the term of the contract, 4 percent of the 1,717 agreements provided for arbitration, as compared to 10 and 11 percent in 1949 and 1952, respectively. Although these earlier figures are not strictly comparable, the present study seems to demonstrate, if anything, that the arbitration of contract terms was even less popular in the early 1960's than a decade or more earlier.

Before discussing contract arbitration clauses in this chapter, a lesser known and even less prevalent method of settlement—an agreement to accept mediation—is first discussed.

Mediation of Contract Disputes[33]

Only 16 of the 1,717 agreements studied explicitly provided for mediation of disputes over contract terms. In view of the abundance of Federal and State mediation services automatically available,[34] particularly in major agreement negotiations, the existence of any agreement to accept mediation may seem unusual. Perhaps the meaning of these clauses lies in the difference between accepting mediation wholeheartedly (or at least as a contract obligation) and having mediation thrust upon one or two reluctant parties.

Mediation was the terminal point in the dispute adjustment procedure in 10 of the 16 contracts, 3 provided for arbitration if mediation was unsuccessful, and 3 permitted subsequent arbitration only by mutual consent of the parties.

Unsettled disputes over revised or new contract terms were automatically brought to mediation under seven contracts, and at the request of either party under another seven:

> If by 30 days prior to the anniversary or termination date of the agreement, the signatories hereto cannot arrive at an amicable settlement of the proposed new agreement, amendment or amendments thereto to be presented to the signatory organizations for referendum vote, the Federal Mediation and Conciliation Service shall be requested to assist in adjudicating the dispute. (263)

* * *

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[32] See footnote 9, ch. 1.

[33] The mediation of grievance disputes is discussed in BLS Bulletin 1425-1, pp. 52–54.

[34] The Labor Management Relations Act specifies that no party to a collective bargaining contract shall terminate or modify such contract unless notice is given the other party 60 days prior to the termination date of the contract, and within 30 days of such notification the party desiring the change must notify both the Federal Mediation and Conciliation service and the State mediation agency if no agreement has been reached by that time.

In States almost all statutes authorize mediation assistance by a State agency, or the State labor department mediates without specific statutory authority. In addition to furnishing mediation assistance upon request of either party, the FMCS and a number of the State agencies are empowered to proffer their services whenever they have knowledge of a labor controversy in which, in their judgment, intervention is warranted. Other State agencies do so only if one or both parties request assistance.

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> This agreement shall remain in full force and effect until May 1, 1965, and shall continue in effect from year to year thereafter, unless either party shall give written notice on or before February 28, 1965, of its desire to amend or terminate the agreement, provided that if notice is given to amend certain portions of the agreement, all other portions of the agreement shall remain in full force and effect.
>
> In the event written notice is given of the opening of this agreement, the parties hereto, upon expiration of this agreement, shall immediately commence negotiations for the purpose of negotiating a new agreement. If a new agreement is not reached by the expiration date of this agreement, the parties will, on request of either, participate in good faith efforts to reach agreement through the services of the United States Mediation and Conciliation Service.
>
> All future agreements arrived at, as provided in the preceding section, shall be retroactive to the date of the expiration of the preceding contract. (264)

Mutual consent of both parties was required in the remaining two contracts:

> Seventy-five days prior to the expiration date of this contract either party may give to the other party written notice of its desire to change the contract, along with such changes as it may wish to have made. After the giving of such notice immediate endeavors shall be made to negotiate a new contract. If agreement has not been reached by a date 30 days prior to the expiration date of this contract then by mutual consent the parties may invite a representative of the New York State Board of Mediation or of the Federal Mediation and Conciliation Service, or both, to particpate in the remaining days of negotiation. (265)

The FMCS was most frequently specified as the mediation agency, as shown below:

FMCS	6
FMCS or State mediation agency	2
State mediation board	2
Selected by the parties	4
Not specified	2

Arbitration of Disputes Over New Contracts

All unsettled issues were arbitrable under 26 contracts. Another, covering nurses, excluded compulsory union membership (table 10).

The 27 provisions were found in only eight industries—four in nondurable goods manufacturing (apparel, printing, food products, and textiles) and four in nonmanufacturing (public transportation, utilities, construction, and services—laundry and hospital).

The principle unions involved were the Amalgamated Clothing Workers, Printing Pressmen, Brotherhood of Electrical Workers, Bricklayers, and Amalgamated Transit Union.[35]

In most instances, the arbitration machinery was the same as that provided for unsettled grievance disputes. The contracts either specifically referred to the regular arbitration procedure, or, with a few exceptions, set forth the same procedure. An ad hoc board was specified in 20 contracts; a permanent board and a permanent arbitrator in 2 each. A single ad hoc arbitrator or board was optional in one contract, and an ad hoc or permanent board in another. The remaining contract did not indicate the type of machinery.

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[35] Formerly Amalgamated Association of Street, Electric Railway and Motor Coach Employes of America.

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Table 10. Provisions for Arbitration of New or Revised Contract Terms in Major Collective Bargaining Agreements by Industry, 1961–62

(Workers in thousands)

Industry	Number studied		Arbitration of—						Ban on arbitration of new contract terms and reopenings	
			New contract terms		Economic issues at contract reopening(s)		New contract terms and/or economic issues by mutual consent only			
	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers	Agreements	Workers
All industries	1,717	7,438.4	27	75.7	70	349.0	24	130.6	92	202.8
Manufacturing	1,045	4,351.3	11	29.7	40	242.8	7	17.4	63	137.9
Ordnance and accessories	20	67.5	-	-	-	-	-	-	-	-
Food and kindred products	118	360.5	2	3.9	4	11.4	2	4.3	9	19.0
Tobacco manufactures	12	25.8	-	-	-	-	-	-	-	-
Textile mill products	31	81.2	1	7.9	2	5.0	3	6.9	3	7.8
Apparel and other finished products	53	456.2	4	8.8	26	199.9	-	-	-	-
Lumber and wood products, except furniture	13	26.1	-	-	-	-	-	-	-	-
Furniture and fixtures	19	33.2	-	-	-	-	-	-	2	2.5
Paper and allied products	57	125.9	-	-	1	1.7	-	-	1	1.0
Printing, publishing, and allied industries	34	70.8	4	9.2	-	-	1	1.2	4	5.0
Chemicals and allied products	53	102.0	-	-	-	-	-	-	4	6.0
Petroleum refining and related industries	15	49.2	-		-	-	-	-	1	1.0
Rubber and miscellaneous plastics products	29	126.2			1	5.0	-	-	3	6.0
Leather and leather products	19	66.9			4	16.5	-	-	-	-
Stone, clay, and glass products	41	110.3			-	-	-	-	3	12.1
Primary metal industries	113	627.6	-	-	-	-	-	-	6	7.6
Fabricated metal products	52	140.8	-	-	-	-	-	-	5	6.1
Machinery, except electrical	106	310.9		-	-	-	-	-	4	6.6
Electrical machinery, equipment, and supplies	105	421.0		-		-	1	5.0	6	25.8
Transportation equipment	120	1,074.4	-	-		-	-	-	3	8.0
Instruments and related products	24	53.5	-	-	-	-	-	-	7	16.5
Miscellaneous manufacturing industries	11	21.9	-	-	2	3.3	-	-	2	7.3
Nonmanufacturing	672	3,087.1	16	46.0	30	106.2	17	113.3	29	64.9
Mining; crude petroleum and natural gas production	18	237.8	-	-	-	-	-	-	-	-
Transportation [1]	115	681.1	6	11.5	6	27.5	1	1.1	1	1.1
Communications	80	501.3	-	-	-	-	-	-	-	-
Utilities: Electric and gas	79	195.1	4	6.1	3	3.9	8	41.4	2	2.5
Wholesale trade	13	25.2	-	-	-	-	-	-	2	7.0
Retail trade	106	289.9	-	-	4	9.1	-	-	10	14.2
Hotels and restaurants	37	171.2	-	-	7	18.4	2	17.5	3	12.2
Services	53	177.7	2	11.4	9	40.3	-	-	1	1.5
Construction	170	805.1	4	17.0	1	7.0	6	53.3	10	26.5
Miscellaneous nonmanufacturing industries	1	2.9	-	-	-	-	-	-	-	-

[1] Excludes railroad and airline industries.

NOTE: Because of rounding, sums of individual items may not equal totals.

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Twenty-six of the 27 contracts contained the standard clause requiring 60 days' notice, prior to the expiration date, of desire to terminate or modify the contract. Usually, the proposed changes were to be included in the notice. The other contract required the parties to start negotiations for renewal or amendment of the contract 60 days prior to its expiration, with no mention of prior notice or of termination of the contract. If no agreement was reached within the 60 days, the matter was to be referred to arbitration.

In most of the contracts, if negotiations were unsuccessful, the disputed issues automatically were to be referred to arbitration. A few provided for arbitration at the request of either party.

Nearly all of the contracts stipulated that all terms of the contract were to remain in effect during negotiations; strikes and lockouts were specifically prohibited.

Specific time limits for referral to arbitration were established in most instances. Most frequently specified were the expiration date of the contract, or 30 days prior to its expiration. One utility contract specified 90 days after the expiration date; another permitted referral within 30 days after negotiations ceased. Two contracts did not set a time limit.

Examples of contract arbitration provisions follow:

Duration of Agreement

This agreement shall go into effect commencing August 9, 1962, and shall continue in effect until midnight of August 8, 1965, which date this agreement and the terms hereof shall be automatically renewed from year to year thereafter unless 60 days prior to the expiration of this agreement and the expiration dates of any renewal thereof notice in writing by registered mail is given by either party to the other of changes proposed in said agreement. In the event such notice is given by either party, and negotiations are not complete upon the expiration of this agreement, then and in that event this agreement shall continue in effect until a new agreement shall be executed. It is agreed by and between the parties hereto that in the event negotiations are not completed upon the expiration of the agreement, all terms of the new agreement shall be retroactive to 12:01 a.m. of August 9, 1965.

In the event that the parties hereto are unable to agree upon the terms and conditions of a new agreement then the matter shall be referred to a joint board of seven persons, three to be selected by the association, three by the union, and the seventh to be mutually agreed upon.

In the event the parties hereto cannot agree upon the seventh person to be selected, then and in that event the Senior Judge of the United States District Court, for the Northern District of Illinois, Eastern Division, shall serve as the seventh member, or in the event of his inability to serve, he shall name the seventh member of such wage agreement committee.

During such time as the matter is pending, and until a new contract is negotiated, there shall be no lockout, strike, stoppage or interference with work and the agreement of the aforesaid committee shall be binding on all parties. (266)

* * *

This agreement shall remain in full force from the date of signing hereof until January 26, 1966, and from year to year thereafter until either party notifies the other party, not less than 60 days prior to the expiration of this agreement or of any extension thereof, of its desire to terminate or amend the same. If an amendment is desired the substance thereof shall be contained in such notice.

In the event such notice is given, the parties hereto agree to hold joint conferences for the purpose of negotiating a new agreement or amendment with regard to wages, hours, working conditions, and/or other matters of collective bargaining to take the place of or amend this agreement.

In the event such conferees should be unable to agree upon the terms of a new agreement within 90 days after the expiration of this agreement the issues in dispute shall be disposed of by decision of a board of arbitration selected as hereinbefore provided in article__ of this agreement. (267)

* * *

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Duration—Termination—Change

This agreement shall continue in force and be binding upon the respective parties hereto, and those represented thereby, to and including October 31, 1965, and thereafter from year to year ending October 31st, subject, however, to termination or change as hereinafter in this section provided. . . .

At the expiration of the initial period of this agreement (i. e., October 31, 1965), or at the expiration of any succeeding year thereafter (ending October 31st), if said agreement then be in effect and notice of termination has not been given or has been withdrawn if given, changes may be made herein, or in any article or section hereof, by agreement between the contracting parties, with final resort to arbitration as hereinafter provided in this paragraph, if that be necessary. The party or parties hereto desiring such change or changes shall notify the other party in writing of the desired change or changes, in such reasonable detail as to make same clear and understandable, at least 60 days prior to October 31, 1965, or any succeeding October 31st during the duration of this agreement; whereupon the change or changes requested shall be promptly considered by the duly accredited representatives of the association and the duly accredited representatives of the company in joint session, and any change or changes agreed upon shall be incorporated in and become part of this agreement, effective as of such date or dates (in no event prior to the November 1st next succeeding the date of such notice) as the parties may agree; and, should the parties be unable to agree upon the change or changes desired or the effective date or dates thereof, after all reasonable efforts so to do, and notice of termination of this agreement has not been given or has been withdrawn if given, resort may be had to the arbitration procedure for "proposed contractual changes," as provided in subsection __ of section __ of this article. . . .

Arbitration of Proposed Contractual Changes. Whenever either party hereto, having made all reasonable efforts to agree by negotiation, elects to submit any proposed changes in this agreement to arbitration (pursuant to and consistent with the provisions of the second paragraph of section__ of this article), written notice to that effect shall be given by hand or registered mail to the other party, stating briefly the proposed changes to be arbitrated; provided, that no such notice shall be valid, nor shall any further action be taken on the basis thereof, unless it be given to the other party within 30 days after efforts to agree by negotiation have been abandoned. Thereupon, within 15 days after the delivery of such a valid notice, the party receiving same may give written notice by hand or registered mail to the other party of any changes in the agreement proposed by it; and likewise within said period of 15 days each party shall appoint one arbitrator and shall give written notice thereof by hand or registered mail to the other party, or otherwise forfeit its case. The two arbitrators thus selected shall forthwith proceed in good faith to select one additional arbitrator (who shall be a competent, impartial and disinterested person, residing and having his place of business outside of the Counties of Jackson, Cass, Clay, and Platte, Missouri, and Wyandotte, Johnson and Leavenworth, Kansas); but, should the two arbitrators first selected fail to agree upon the other arbitrator within 15 days after being appointed, they shall so notify the parties, whereupon the president of the association and the president of the company shall promptly confer and endeavor in good faith to complete the personnel of the arbitration board; and, if they fail to agree on the third member of said board within 2 days after such conference, a competent, impartial and disinterested person to serve as such third member shall thereupon promptly be selected from a list of five persons submitted /by FMCS/ in the manner set forth in section__ of this article. Any vacancy at any time occurring in the arbitration board shall be filled in like manner as the predecessor arbitrator was selected. The arbitration board thus constituted shall promptly proceed to hear and consider the proposed changes and the evidence submitted thereon by the parties and to render a decision thereon; and the decision of a majority thereof shall be final and binding upon the parties. All decisions of the arbitration board shall be in writing, signed by a majority of the members thereof, and original counterparts thereof shall be filed with the company and the association.

The expenses of each such arbitration, including reasonable compensation to the third arbitrator, shall be equally divided between the parties, except that each party shall bear the expense of its arbitrator, its witnesses, the production of its evidence and the presentation of its case. (268)

* * *

This agreement is to continue in effect through October 31, 1965, and from year to year thereafter unless change is requested by either of the parties hereto by written notice 60 days prior to October 31, 1965, or 60 days prior to October 31 of any year thereafter. In the event the parties cannot reach agreement upon proposed changes or modifications, or in the event of a notice of termination if collective bargaining fails to result in agreement, then all matters in dispute shall be arbitrated as provided in the provisions of this agreement dealing with the arbitration of future contracts.

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Arbitration of future contracts. In the event that, pursuant to section__ of this agreement, either party requests changes in this agreement or requests termination of all or any part of this agreement and negotiations fail to result in an agreement between the parties, all issues in dispute shall be submitted to a board of arbitration on written demand of either party. . . .

All the conditions in this contract shall remain undisturbed during the arbitration proceedings. Each of the parties hereto shall bear the expense of its own arbitrator, and the parties hereto shall jointly bear the expenses of the three arbitrators. (269)

* * *

Duration and Renewal:

Except as otherwise herein provided, this agreement will be in full force and effect as of June 1, 1964, until May 31, 1967, and will continue in full force and effect from year to year thereafter unless written notice of desire to change or modify or terminate this agreement is given by either party in writing to the other party at least 60 days prior to May 31 of any year, provided either party will have 15 days after the giving of such notice by the other party within which to present counter-proposals thereto. In the case of giving of such notice to change or modify the provisions or terms hereof, this agreement will continue in full force and effect as aforesaid except as to those provisions or terms respecting which there has been such notice of a desire to change or modify; and the parties further agree to meet and negotiate in good faith regarding any change or modification of provisions or terms so requested by either party. If the parties are unable to agree upon any provisions or terms requested by either party in such notice to the other party, and if agreement cannot be reached under the conciliation provisions of the Minnesota Statute applying to charitable hospitals, then the the parties agree that all unsettled issues (except a demand for compulsory membership) will either be submitted to arbitration, pursuant to sections 179.09, 179.38 and chapter 572 of the Minnesota Statutes, or if not submitted to arbitration pursuant to agreement or statutory provisions, then the applicable provisions (if any) of the last previous agreement between the parties will continue in full force and effect as to the unsettled issues not arbitrated. (270)

* * *

Expiration

Sixty days prior to the expiration date of this agreement, the board of arbitration shall meet to consider its renewal or amendment. In the event they are unable to come to a satisfactory understanding on or before the expiration date of this agreement it shall immediately be submitted to arbitration as explained under article__section__ /grievance arbitration/. (271)

For the renewal of this contract, the union shall present to the league and the league shall present to the union 90 days prior to the expiration of this contract, a statement in writing of demands for changes both in shop rules and scale of wages. All demands shall be included in the first statement, subject to change in negotiations. Negotiations shall be entered into promptly following the interchange of demands, and efforts made by each party with the other to conciliate points of difference. If no notice by either party is given in writing as stipulated in the preceding paragraph, the then existing provisions of this contract shall continue in full force and effect to December 31, 1963, and thereafter be subject to the stipulations as set forth in the preceding paragraph, prior to each succeeding annual expiration date. . . .

In the event of a difference arising between a member of the league and the union, all work shall continue without interruption pending proceedings looking to conciliation or arbitration, either local or international, and the scale of hours provided in contract between the parties and working conditions prevailing prior to the time the differences arose shall be preserved unchanged until a final decision of the matter at issue shall have been reached.

All differences which cannot be settled by conciliation shall be referred to arbitration in the manner stipulated in this agreement. This section is hereby construed to contemplate the submission to arbitration of all questions which involve the cost, working conditions, efficiency and administration of the services of all employees employed in the operation of the pressrooms of the employer as press assistants and includes disagreements arising in negotiations for a new scale of wages, or for hours of labor, or in renewing or extending an existing scale, or in respect to a contract, which cannot be settled by conciliation . . .

When the joint conference committee is unable to reach a decision within 10 full business days after the final submission of the case to said committee, then the dispute involving interpretation of the terms of the existing "Wage Scale and Working Conditions Contract" or the terms of a new contract shall be referred to an arbitrator or a board of three arbitrators to be appointed by mutual agreement. (272)

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Arbitration of Economic Issues Reopened During Term of Contract

Of nearly 500 contracts (out of 1,717) with provisions for renegotiation of economic issues during the contract term, approximately 15 percent (70) provided for arbitration if negotiations failed, to be invoked either automatically or at the request of either party. Provisions for arbitration of reopening issues and of new contract terms often were found in the same industries. Reopening arbitration was most prevalent in the apparel industry, where nearly three-fifths of the contracts with provision for reopening of economic issues included arbitration of these issues.

As may be expected, the reopening and subsequent arbitration clauses were found mainly in long-term contracts, usually those contracts which were from 3 to 5 years' duration. Reopenings either were permitted or required at specified intervals, or were dependent on certain conditions, such as changes in the cost of living or other economic changes.

A limited number of contracts permitted reopening of all issues relating to wages, hours, or working conditions, and a few of these provided for arbitration in event of disagreement.

> The term of this agreement as herein modified is extended to September 1, 1965.
>
> The union and the employer each reserves the right to request modifications of the provisions of this agreement relating to wages, hours, or working conditions by serving a written notice of such request on or before April 1, 1964. Upon service of such notice they shall confer upon the proposed modifications and any modifications agreed upon shall become effective as of September 1, 1964. If no agreement is reached with reference to such requested modifications prior to August 1, 1964, the matter may at any time thereafter be submitted to the impartial arbitrator. The decision, order, direction, or award of the impartial arbitrator shall be final, conclusive and binding and enforceable in a court of competent jurisdiction. Any modifications provided in the decision, order, direction, or award shall become effective as of September 1, 1964. (273)

Demands for general wage changes were the predominant issues subject to arbitration, accounting for more than 4 out of every 5 provisions. In some instances, related issues, such as shift differentials, were included.

> The employer and the union 30 days prior to February 1, 1968, shall confer with respect to the straight-time hourly rates of pay for all regular employees. If the parties by February 1, 1968, have not reached any conclusion with regard to the foregoing issue, then the discussion shall be continued for a further period of 60 days. Any agreement reached between the parties hereunder shall be effective as of February 1, 1968. If the parties at the expiration of such 60-day period shall not have reached any satisfactory agreement, then the dispute with respect to the foregoing question shall be mutually submitted to arbitration as provided in article__ this agreement. Except for the foregoing issue subject to reopening, all other terms of the contract shall remain in effect for the duration of the contract. (274)
>
> * * *
>
> The wage scales, night-shift differentials, extra work differential, and split-shift and short-shift differentials, if any, which are set forth in schedule__ hereto attached and section__, shall be known as the "Wage Section" of this agreement, and as such shall remain in full force and effect throughout the duration of the "Working Conditions Section" of this agreement; provided, however, that either the whole or part of schedule__ and section__ may be reopened for negotiations by either party giving written notice to the other of such action 60 days prior to March 15, 1964, and any subsequent anniversary date. Such negotiations shall be subject to the provisions of section__ /arbitration/ hereof. Such requests for reopening are to concern only those items set forth in schedule__ and section__. (275)
>
> * * *
>
> Should there be an increase in the cost of living from its level as of July 15, 1964, or change in the purchasing power of the dollar from its level as of July 15, 1964, then the wages of the workers shall be revised accordingly, but in no event below the minimum rates listed in appendix A . . . Should the parties be unable to agree upon such revision, then the matter shall be referred to the impartial chairman as any other dispute under this agreement, and his decision shall be final. (276)

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Other economic issues subject to renegotiation and arbitration related to financing or improving pension and welfare plans, and changes in fringe benefits, such as holidays and vacations.

On and after January 1, 1961, the parties hereto shall meet to negotiate the amount of contribution to be paid to the pension fund by the employer, to be effective June 1, 1961. If the parties are unable to agree on such amount, the matter may be submitted to arbitration pursuant to article__ hereof. (277)

* * *

The parties agree that at the request of either party they will institute negotiation 30 days prior to April 1, 1963, with respect to improvement of pension benefits to be paid . . .

If by April 1, 1963, the parties are unable to agree upon the amount of such monies available for improvement of pension benefits, or upon the nature or amount of improved benefits, these issues shall be submitted to arbitration for final and binding decision. (278)

* * *

Anything in the foregoing to the contrary notwithstanding, it is agreed that article__ (pension and welfare plan) of this agreement will be reopenable as of January 26, 1962, on 2 months' prior written notice by either party, for the negotiation of the sole question whether the contributions to the pension and welfare funds are sufficient to maintain the benefits in effect on January 26, 1960, or if not, what steps should be taken to maintain such benefits. If the parties cannot agree, the provisions of article__(arbitration) shall be applicable. (279)

* * *

This agreement shall be in full force and effect from the date hereof to and including the 31st day of May 1964, subject to the provisions set forth below, and if neither party serves written notice of its desire to terminate, change or modify this agreement 60 days prior to the date of expiration, it shall be deemed to be renewed for the succeeding year and from year to year thereafter in like manner.

Either party may request an adjustment in straight-time hourly wages across-the-board as of June 1, 1960; an adjustment in straight-time hourly wages across-the-board and holidays as of June 1, 1961; an adjustment in straight-time hourly wages across-the-board and vacations as of June 1, 1962; an adjustment in straight-time hourly wages across-the-board as of June 1, 1963. In each case and on each anniversary date a prior written notice of at least 60 days must be given. In the event such notice is given and the parties fail to reach agreement on the issue or issues before them, then, at the request of either party, such issue or issues shall forthwith be submitted to arbitration for decision under the provisions of section__ herein. (213)

Many contracts provided for renegotiation of contract provisions which may be held to be invalid under current or future legislation or regulations. Some contracts included provisions for arbitration if negotiations to arrive at an acceptable substitution failed.

Legislation

In the event that any Federal, state or municipal law or any rule or regulation of any governmental agency shall render unenforceable or compel the cancellation or modification of any provision of this agreement with respect to its application at any location at any time with respect to any member during the term of this agreement, such provision shall thereupon become inoperative as to that location or member only, and the association and the union shall within 10 days thereafter meet for the purpose of negotiating changes made necessary by such applicable Federal or state law or government regulation, failing agreement on which the matter may be submitted to the impartial chairman as a dispute, by either party, and the impartial chairman shall in his award include substitute lawful and enforceable provisions for those which are unlawful or unenforceable, which most closely approximate the intent and purpose desired to be achieved by the parties in such provision or provisions as of the date of execution hereof. (280)

* * *

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In the event that any articles or sections are held invalid or enforcement of or compliance with which has been restrained, as set forth, the parties affected thereby shall enter into immediate collective bargaining negotiations, upon the request of either party, for the purpose of arriving at a mutually satisfactory replacement for such articles or sections during the period of invalidity or restraint. In the event the parties are unable to agree on a replacement clause, such dispute shall be subject to the arbitration provisions of this agreement. (278)

Mutual Consent Arbitration of New Contract and Reopening Issues

The 24 provisions which permitted arbitration of new and/or reopened contract terms only by consent of both parties were similar to those discussed in the preceding sections, except for the requirement for mutual consent. In some instances, a jointly signed submission was required.

Where the signatories hereto cannot agree voluntarily on extending an agreement as to hours, wages, working conditions, and/or other contingency that may arise, the dispute may, by mutual agreement of both parties, be submitted to the arbitration board who shall submit their decision within 10 calendar days of the date of submission. (263)

* * *

. . . matters arising out of the expiration of this agreement or annual openings are not subject to arbitration unless, when such matters arise, the parties sign a joint submission agreement submitting themselves to arbitration and defining the particular issues to be arbitrated. (281)

Ban On Arbitration of New Contract Terms or Reopening Issues

Arbitration of new contract terms and/or reopening issues was specifically prohibited in 5 percent (92) of the 1,717 contracts. This ban was stipulated in addition to a proviso, found in nearly all contracts, prohibiting the arbitrator of grievance disputes from changing or adding to the terms of the contract, or limiting the arbitrator's jurisdiction to disputes arising over interpretation or application of the provisions.

Some of the 92 provisions related to new contract terms, some related to reopening issues, and others specified both types of negotiations. As indicated earlier, most of the reopening provisions concerned wage rates.

Negotiations. Nothing in this agreement shall be construed as an agreement to submit to arbitration any questions involved in the negotiations for a new agreement following notice of termination or notice of reopening . . . (282)

* * *

. . . At the termination of the local agreement between the company and any local union, the local plant management and such local union shall negotiate as promptly as possible a local agreement on subjects they desire to be covered to the extent that they do not conflict with the provisions of this master agreement. In the event the local plant management and the local union are unable to agree upon a local agreement to replace the local agreement which expired, the local union will not resort to any form of strike action until after the controversy has been reviewed by the [grievance] board referred to in section__ of article__, but such a controversy is not subject to arbitration. (283)

* * *

The hourly rate schedule only . . . may be reopened once only by either party on April 22, 1963, . . . In the event agreement is not reached . . . the dispute over hourly rates shall not be subject to arbitration and the "no-strike, no-lockout" provision . . . shall not apply . . . (284)

* * *

The umpire shall not have the power to arbitrate provisions of a new agreement or to arbitrate away, in whole or in part, any provisions of this agreement, nor shall he have the power to add, to delete from, or modify any of the provisions of this agreement. (285)

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A variation, shown below, banned arbitration of "general negotiations."

Grievance Procedure

It is understood and agreed that the union may invoke the grievance /and arbitration/ procedure in consideration of any differences between the company and the employee . . . Questions involving general negotiations shall not be subject to grievance /or arbitration/ procedure. (286)

The prohibitions usually were included in the sections of the contracts providing for negotiation of new contracts or reopening issues. A few prohibitions were included in sections dealing with the jurisdiction of the arbitrator.

The prohibitions were not concentrated in any specific industries. Although approximately 40 unions were signatories to the contracts, 6 unions—the Teamsters, Machinists, Steelworkers, Iron Workers, Oil and Chemical, and Retail Clerks—accounted for one-third of the contracts.

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Chapter IX. Arbitration of Jurisdictional Disputes

A procedure for the settlement by an industry tribunal of disputes between two unions as to which one is to perform a certain type of work has been established in the construction industry, and resort to this procedure frequently is required by collective bargaining contracts in this industry. The plan, formulated by the Building and Construction Trades Department of the AFL-CIO and The Associated General Contractors of America and Participating Specialty Contractors Employers' Associations, binds all members of the Department and the Associations, as well as nonmembers who sign the agreement.

The National Joint Board for the Settlement of Jurisdictional Disputes, established under the plan, consists of an impartial chairman, four regular, and four alternate members. The basic and the specialty trades are represented equally by members, two regular and two alternate labor members appointed by the Department and one regular and alternate member appointed by each of the two associations. The chairman and board members have authority to establish procedural regulations and administrative practices provided they are consistent with the terms of the jurisdictional disputes settlement agreement.

In addition to the national joint board, an appeals board was recently established, pursuant to a revision of the agreement on April 1, 1965. The appeals board consists of an impartial umpire, four regular and four alternate members, as in the national joint board. All decisions of the national joint board are binding, unless appealed to the appeals board. In such event, the decisions and interpretations of the appeals board are final and subject to immediate compliance. Participating unions are pledged not to strike pending decision of either board.

Jurisdictional agreements entered into between affiliated international unions and decisions rendered affecting the building industry are published in the official "Green Book" of the Building and Construction Trades Department. Under the national agreement, assignments of work are to be made by contractors on the basis of the decisions and agreements recorded in the Green Book, or, if not covered, by established trade practice or prevailing practice in the locality.

Agreement Provisions

Of the 170 major contracts in the construction industry studied, covering 805,000 workers, 121 or 71 percent, accounting for nearly 80 percent of the workers, provided some procedure for the settlement of jurisdictional disputes. Arbitration was indicated in 118 contracts. In most instances, referral to arbitration was to be made to the national joint board. The three contracts which did not provide for arbitration were negotiated by the independent Teamsters Union (not affiliated with the Building and Construction Trades Department).

One hundred and thirteen contracts were negotiated by the Building and Construction Trades Department or by its affiliated unions. The Teamsters Union was also a signatory to four of these contracts. Although the Teamsters was the only union signatory to the remaining eight contracts, these were part of multiunion contracts involving other building and construction unions with the same employers.

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A total of 113 contracts specifically referred jurisdictional disputes to the national joint board—108 negotiated by Building and Construction Trades Department unions and five by the Teamsters. One of the five contracts called for settlement in accordance with Building and Construction Trades Department rules or "other applicable rules or agreements."

> All differences or disputes concerning the interpretation or application of any provision(s) of this agreement shall be submitted to the grievance /and arbitration/ procedure, except jurisdictional disputes, which shall be resolved in accordance with the plan for national joint board for settlement of jurisdictional disputes . . . (287)

* * *

> Jurisdiction of Work
>
> The association recognizes the jurisdiction of the union over work to be that jurisdiction recognized and accepted by the national joint board for the settlement of jurisdictional disputes. Further, both parties hereto agree that all jurisdictional disputes will be handled according to the procedures developed by said board without any cessation of work. (288)

* * *

> Jurisdictional Disputes
>
> There shall be no cessation or interference in any way with any of the work of employer or of any individual employer by reason of jurisdictional disputes between the various unions affiliated with the AFL-CIO or with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America with respect to jurisdiction over any of the work covered by this agreement. Such disputes shall be settled by the unions themselves in accordance with the rules of the Building and Construction Trades Department of the AFL-CIO or other applicable rules or agreements. (289)

Some contracts included a stipulation that, in event of any change or discontinuance of the national joint board plan, any future plan adopted by the Building and Constuction Trades Department would be used in lieu of the present procedure.

> Procedure for Settlement of Disputes and Grievances
>
> All jurisdictional disputes shall be settled under the plan and procedure set forth by the national joint board for the settlement of jurisdictional disputes heretofore approved and adopted by the Building and Construction Trades Department, American Federation of Labor, AFL-CIO and the Associated General Contractors, and committee representing the specialty contractors and effective April 1, 1965, provided, however, that in the event of change in the aforementioned plan, it is hereby agreed that the plan for settlement of jurisdictional disputes adopted by the American Federation of Labor, Building and Construction Trades Department, AFL-CIO shall be used in lieu thereof; and provided further that jurisdictional disputes involving the Teamsters shall be processed in accordance with Teamsters' special working rule __ . . . (290)

Included in the 113 contracts providing for referral to the national joint board were the four with mixed affiliation (Building and Construction Trades Department and Teamsters) all of which provided separate procedures for disputes involving the Teamsters. Two provided for final determination through the regular arbitration procedure outlined in the contract. The other two did not mention arbitration, but provided for referral to the international unions for settlement.

> The unions guarantee, during the term hereof, that there shall be no strikes, slowdowns or stoppages of work occasioned by jurisdictional disputes between any of the unions signatory hereto or any other AFL-CIO union, and that all workmen covered by this agreement shall perform the work customarily performed by them and will cooperate and work with members of other organizations affiliated with the AFL-CIO without regard to past, present or future disputes based on jurisdictional claims.

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All jurisdictional disputes between the union on whose behalf this agreement is made, or any other unions affiliated with the AFL-CIO, shall be determined in the manner and by the procedure established by the national joint board for the settlement of jurisdictional disputes or, in the event the national joint board for the settlement of jurisdictional disputes is abolished, the procedures established by the Building and Construction Trades Department of the AFL-CIO shall prevail. Such determination shall be binding upon and accepted by the employers and the unions.

Jurisdictional disputes involving the Teamsters will be settled in the following manner:

> If a jurisdictional dispute arises, it shall first be submitted to the local business agent of the crafts involved for settlement, and if no understanding of agreement is reached within 48 hours, it will be referred to the international unions involved for settlement. The international unions agree to meet within 48 hours to settle the dispute and if no agreement is reached on this level within 5 days, the parties to the dispute may extend the period for settlement to another fixed date, mutually agreed upon. If settlement is not effected by such date, the dispute shall be submitted to arbitration as set forth in the grievance procedure of this agreement. Pending such settlement, the craft performing the work at the time the dispute arises will continue in such capacity until settlement is reached as above provided, it being agreed that there shall be no stoppage or abandonment of work in regard to any jurisdictional dispute. Existing international jurisdictional agreements shall be respected by all parties. Any agreements between disputing parties must be made in writing to the employers before a change in assignment is made. Expenses to be shared by disputants. (291)

* * *

Master Agreement

Article__ Jurisdictional Disputes

All jurisdictional disputes between or among Building and Construction Trades Unions and contractors, parties to this agreement and their subcontractors, shall be settled and adjusted according to the present plan established by the Building and Construction Trades Department (plan for national joint board for settlement of jurisdictional disputes in the Building and Construction Industry) or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the employer and the unions parties to this agreement.

The contractors shall insert in all subcontracts let to subcontractors the following clause:

> The subcontractor agrees to be bound by the rules, regulations and procedures of the national joint board for the settlement of jurisdictional disputes in the Building and Construction Trades industry in the assignment of work and/or the settling of jurisdictional disputes on work to be done at the job site.

If a contractor or union does not comply with the rules, regulations and decisions as directed by the national joint board on a case in dispute, it shall be considered as a violation of this agreement.

Teamsters . . .

Jurisdictional Disputes

There shall be no work stoppage, slowdown or strike because of any jurisdictional dispute. All jurisdictional disputes between or among the union and other unions and the contractor or contractors, parties to this agreement, shall be discussed jointly by the union or unions and the contractor or contractors involved. If the dispute cannot be settled locally within 48 hours (2 workdays) of the date it was brought to the attention of the contractor or contractors, a staff member of the New Orleans Chapter, Associated General Contractors of America, Inc. shall request the international officers of the unions involved to meet and resolve the issue. If the dispute is not resolved by the officers of the international unions within 10 days, the work assignment made by the contractor or contractors shall then become final and binding upon the parties to the dispute for the duration of the job on which the dispute arose. (292)

A few of the 108 Building and Construction Trades contracts with provision for referral to the national joint board also pledged use of the unions' efforts to resolve jurisdictional disputes involving unions not parties to the agreement.

> In case of disputes between any Building and Construction Trades unions not parties to this agreement, or between a union or unions parties to this agreement and a Building and Construction Trades Union or unions not parties to this agreement, the unions agree to use their best efforts and influences to settle such disputes as provided in this section. (293)

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The remaining five contracts with unions affiliated with the Building and Construction Trades Department did not specifically provide for referral to the national joint board, but specified special procedures. Although not stipulated in the contract, jurisdictional disputes would come under the national joint board or the national appeals board, because of the unions' affiliation with the Department. Local arbitration plans recognized by the Department—New York, Chicago, and Boston plans—are separate entities, but appeals from decisions of the local body may be made to the national appeals board. This appeal procedure would be applicable under 3 of the 5 contracts, which provided for arbitration under the New York Building Trades plan:

> In case of jurisdictional disputes the general arbitration plan as adopted by the Building Trades Employers' Association of New York is hereby made a part of this agreement. (294)
>
> * * *
>
> Strikes—Lockouts—Jurisdictional Disputes
>
> There shall be no strikes or lockouts or stoppages of work; neither shall members of the union collectively leave the work of a member of the association. Disputes between trades and disputes relative to questions of jurisdiction of trades shall be adjusted in accordance with the principles of the New York plan for the settlement of jurisdictional disputes as set forth in the joint arbitration plan of the New York Building Trades as adopted on July 9th, 1903, and amended on April 22d, 1905, and as thereafter amended, and all decisions rendered thereunder determining disputes arising out of the conflicting jurisdictional claims of various trades shall be recognized by and be binding upon the parties hereto, except to the extent that section 3 of the said joint arbitration plan requires the employer to employ only members of the union directly or indirectly, through subcontractors or otherwise.
>
> Pending the determination of any dispute under the New York plan for the settlement of jurisdictional disputes as stated in the preceding paragraph, the members of the union shall remain at work on the project without change in status. (295)
>
> * * *
>
> Jurisdictional Disputes: It is mutually agreed between the parties hereto that in the event of disputes between trades and disputes relative to questions of jurisdiction of trade, the parties will abide by previous decisions as to jurisdiction published in the latest issue of the B. T. E. A. Handbook, commonly known as "The Green Book."
>
> It is mutually agreed between the parties hereto that disputes between trades and disputes relative to jurisdiction of trade not covered by decision in the latest issue of the B. T. E. A. Handbook, commonly known as "The Green Book," shall be adjusted in accordance with the principles of the New York plan for the settlement of jurisdictional disputes as set forth in the joint arbitration plan of the New York Building Trades as adopted on July 9, 1903, and amended on April 22, 1905, and as thereafter amended, except to the extent that section 3 of said arbitration plan requires the employer to employ only members of the union directly or indirectly through subcontractors or otherwise.
>
> Pending determination of any dispute under the New York plan for the settlement of jurisdictional disputes, as stated in the previous paragraph, the members of the union shall remain at work on the project without change in status. (296)

Under the other two contracts, jurisdictional disputes were to be referred to industry joint boards. The procedural rules and regulations of the national joint board, involving arbitration, also would apply to jurisdictional disputes during these contract terms, if attempts to arrive at a satisfactory settlement failed:

> . . . all jurisdictional disputes between the union, signatory to this agreement, and any other union, shall be determined in the manner and by the procedure established by article __ /grievance procedure/ . . .
>
> . . . the union shall refrain from any strikes or slowdown due to jurisdictional disputes, nor shall the signatory contractor take any action to lock out the members of the union signatory hereto.

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. . . Authority of the joint conference board. The joint conference board shall have general judicial powers to resolve disputes submitted in accordance with the terms of this agreement. . . .

. . . Any party to a dispute who has a decision rendered against them by the grievance committee shall immediately comply with the findings of such committee, and after compliance if aggrieved with the findings of the grievance committee may appeal the decision of the committee to the joint conference board.

. . . The joint conference board shall meet within 48 hours excluding Saturdays, Sundays, and holidays, and [if] the joint conference board fails to reach a decision within 3 days after the matter has been fully heard by it, then either party may refer the dispute to an impartial arbiter . . . (297)

The three Teamsters contracts which did not stipulate referral to the national joint board did not provide for arbitration. Two required referral to the international unions involved, and one to a State joint organizing committee. A provision in one of the contracts stipulated that upon reaffiliation with the Building and Construction Trades Department, the national joint board procedures would become effective. Another contract provision stipulated that existing decisions of record and international agreements of the national joint board were to be respected.

The union guarantees, during the term hereof, that there shall be no strikes, slowdowns or stoppages of work occasioned by jurisdictional disputes between the union signatory hereto and any other union and that all employees covered by this agreement shall perform the work customarily performed by them and will cooperate and work with members of organizations affiliated with the Building and Construction Trades Department of the AFL-CIO without regard to past, present or future disputes on jurisdictional claims.

Where a jurisdictional dispute involves the union and another union affiliated with the Building and Construction Trades Department, AFL-CIO, it shall be referred to the international presidents of the two unions for determination and the work shall proceed as assigned by the contractor until such determination by the international presidents has been confirmed to the disputing unions. Upon reaffiliation of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America with the Building and Construction Trades Department, AFL-CIO, the procedures of the plan for settling jurisdictional disputes nationally and locally shall immediately become effective under the terms of this agreement and replace the procedure for resolving jurisdictional disputes specified in the first sentence of this paragraph. (298)

* * *

The parties agree that there will be no cessation or stoppage of work because of jurisdictional disputes pending settlement by the local or international union. If after a problem arises and it has been taken up by the job steward with the contractor's representative and settlement has not been obtained at the job site, the steward will notify the business representative. In the event the business representative for the union and the business representative for the opposing union cannot agree upon a settlement, the business representatives are to refer the dispute to the international unions involved.

Existing decisions of record, international agreements and agreements between local business representatives will be respected.

The employer will assist the parties involved in settling the dispute by furnishing information or letters requested of him by the disputing parties. (299)

* * *

Jurisdictional Disputes

The employer agrees to respect the jurisdictional rights of the union to perform all of the work set forth in article__ hereof, and to assign all such work to employees subject to this agreement, and shall not permit, direct or require any other employee to perform such work.

In the event of a jurisdictional dispute with any other union, then the same shall be submitted to the State of Connecticut joint organizing committee for settlement, and the parties agree to be bound by the award of said committee. There shall be no work stoppage, slowdown, strike, picketing or lockout during any jurisdictional dispute. (300)

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Pledges of adherence to the provisions, rules, decisions, and agreements of record of the national joint board were common. Some included a stipulation that failure of either party to abide by such decisions would be considered a violation of the agreement. Other stipulations frequently found provided for determination of jurisdiction by local area practices in the absence of applicable decisions or agreements; pledges of employer cooperation in furnishing information pertinent to the dispute, including past practices; and agreement to maintain the status quo until final settlement of the dispute.

Craft Jurisdiction

It is agreed that the jurisdiction of work covered by this agreement is that provided for in the charter grant issued by the American Federation of Labor to the International Association of Bridge, Structural and Ornamental Iron Workers, it being understood that the claims are subject to trade agreements and final decisions of the AFL-CIC as well as the decisions rendered by the national joint board for the settlement of jurisdiction disputes.

The parties to this agreement are subject to and agree to be bound by all decisions and awards made by the national joint board for settlement of jurisdictional disputes with respect to all jurisdictional disputes which may arise under this agreement. (301)

* * *

All differences or disputes concerning the interpretation or application of any provision(s) of this agreement shall be submitted to the grievance procedure, except jurisdictional disputes, which shall be resolved in accordance with the plan for national joint board for settlement of jurisdictional disputes.

. . . It is further understood and agreed that the provisions of the national agreement creating the national joint board for settlement of jurisdictional disputes shall supersede all provisions of this clause insofar as any conflict exists. (302)

* * *

The work to be performed under this contract shall be the work properly within the jurisdiction of building laborers according to decisions or agreements of record which may apply, and in the absence of such it shall be determined by local area practice. In the event of a jurisdictional dispute, there shall be no stoppage of work, and the employees will continue to work on the basis of their original assignments while an earnest effort is made to settle the dispute.

First, by joint local action of the grievance committee and contractors, and second, in the event that the parties are unable to settle the same locally, they shall submit the dispute to the joint board set up under the existing agreement for the settlement of jurisdictional disputes entered into between the Building and Construction Trades Department, AFL-CIO, and the National Association of Employers in the Construction Industries. The parties agree to operate under and be bound by the terms of said agreement. (303)

* * *

. . . The employer agrees to assign work in accordance with the jurisdictional claims of the union as set forth herein, subject to decisions rendered and agreements of the national joint board.

In the interest of promoting industrial peace and harmony in the construction industry, the Building Trades Employers' Association and Carpenter Contractors' Association agree to cooperate in the settlement of jurisdictional disputes. It is agreed that both organizations agree to supply necessary information regarding disputes whenever they arise, if available.

. . . With respect to jurisdictional disputes between the union and any other union growing out of demands for the same work by both unions, the parties to this agreement agree to abide by the procedural rules and regulations, decisions and agreements of record of the national joint board for the settlement of jurisdictional disputes, building and construction industry, which are hereby made a part of this agreement by reference and to abide by the award of said national joint board. (304)

* * *

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In the event of conflicting jurisdictional claims, the procedure of the national joint board for settlement of jurisdictional disputes shall govern.

In carrying out the procedures of the national joint plan for the settlement of jurisdictional disputes, all employers covered by this agreement shall fully cooperate in compiling evidence of trade claims. When requested to do so, employers covered by this agreement agree to promptly furnish such district councils and local unions, within 48 hours, statements of their past and present practices pertaining to work on which there is or may be a pending dispute. Such statements shall be written on the individual employer's letterhead and properly signed and will be delivered through the associated general contractors office.

It will be a violation of the agreement by the contractor or the union if the contractor or the union fails to abide by the decision of the joint board or an arbitor or decision of record. (305)

* * *

In case any such dispute shall arise between the unions as provided herein, it is agreed that the status quo shall be maintained until written advice is given as provided above /national joint board/. (293)

Bans on Strikes Over Jurisdictional Disputes. Although it is the purpose of the national joint board to settle jurisdictional disputes by peaceful means, approximately one-half (57) of the 118 agreements which referred to the board specifically banned strikes over such disputes. In addition, the three Teamsters agreements which did not provide for arbitration also contained a strike ban, making a total of 60 contracts which prohibited strikes over jurisdictional disputes.

The Building and Construction Trades Department agreement with the Associated General Contractors and the Participating Specialty Contractors states:

Continuance of Work—Pending a decision by the board or such settlement as may be arrived at through the office of the chairman of the joint board, there shall be no stoppage of work rising out of any jurisdictional dispute.

Members of organizations affiliated with the Building and Construction Trades Department shall continue to work on the basis of their original assignment, provided the employer has not assigned employees to perform work contrary to decisions or agreements of record or the procedural rules of the board.

A proviso was included in 18 of the 60 contracts permitting waiver of the strike ban in event of failure of any signatory to the agreement to comply with the decision of the national joint board or arbitrator. The strike ban in the remaining 42 clauses was not qualified.

Nothing contained in this agreement or any part hereof, or in this article /jurisdictional disputes and strike-lockout ban/ or any part thereof, shall affect or apply to the signatories hereto or on whose behalf this agreement is executed, or any of them, in any action they may take against any signatories who have failed, neglected or refused to comply with or execute any settlement or decision reached through arbitration under the terms of article__ /arbitration/ hereof, or the jurisdictional determination of the national joint board for the settlement of jurisdictional disputes or the Building and Construction Trades Department of the AFL-CIO or as provided in paragraph__ above. (291)

* * *

Jurisdictional Disputes

There shall be no cessation or interference in any way with any of the work of the employer by reason of jurisdictional disputes between the various unions affiliated with the American Federation of Labor-CIO with respect to jurisdiction over any of the work covered by this agreement. Such disputes shall be settled by the unions themselves in accordance with the rules of the Building and Construction Trades Department of the American Federation of Labor-CIO and the agreement establishing a national joint board for settlement of jurisdictional disputes in compliance with procedural rules and regulations of said board. (293)

* * *

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> Union may take economic action against a contractor who does not comply with agreement. It shall not be deemed a violation of any part of this agreement if the union signatory hereto or on whose behalf this agreement is executed, takes any economic action against any contractor who has failed, neglected or refused to comply with, any decision of the joint committee, joint conference board, arbitrator, . . .
>
> It is agreed that there will be no stoppage of work for a jurisdictional dispute or for violations of this agreement other than those set forth in the paragraph above. (306)

In addition to the 60 contracts, 5 which did not specifically prohibit strikes over jurisdictional disputes contained an absolute ban on strikes for any reason. Examples of these clauses are included in chapter 7 of this report.

Cancellation of Agreement Over Jurisdictional Disputes. Only one contract specifically permitted cancellation of the contract over noncompliance with the jurisdictional disputes procedures or awards:

> . . . Both parties shall be bound by the procedures and decisions of the joint board. In the event that any party under the terms of this article does not comply with its contents then the agreement is abrogated. (307)

A few other contracts, negotiated by the IBEW, permitted cancellation if any employer signatory to an agreement with the IBEW assigned or sublet electrical work to anyone not recognizing the union as the exclusive bargaining agent.

> Should anyone connected in any way with any firm signatory to any agreement with the I. B. E. W. be responsible for assigning or subletting any electrical work, which includes handling or laying of all duct, to anyone not recognizing the I. B. E. W. as the exclusive collective bargaining agency of his employees, this agreement shall be subject to cancellation after the facts have been determined by the international president. (260)

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Appendix A. Arbitration Provisions in Union Constitutions

Whether local unions should adopt arbitration procedures in their agreements is a matter infrequently dealt with in international union constitutions. Of 35 union constitutions examined, covering nearly 11 million workers in a wide range of industries and occupations, only 11, adopted by unions having a total of 2.5 million members, contained references to grievance and/or contract arbitration. This low incidence suggests that, as a rule, local affiliates enjoy a great deal of autonomy in the way they settle disputes. However, since a number of unions require contracts to be approved by the president or the chief governing body, arbitration clauses may find their way into agreements as a matter of policy not reflected in constitutions. Some union constitutions also contain extensive procedures on contract ratification and eligibility for strike benefits. To avert a possible stoppage (and avoid payment of costly strike benefits) the international may direct an affiliate to seek arbitration, a practice probably more widespread than indicated by the following cited clauses.

Most of the 11 union constitutions required or urged local unions to provide for the arbitration of grievances and all "controversies" not otherwise defined. In some cases, the degree of control exercised by the international union in dispute settlements also was stipulated.

United Cement, Lime, and Gypsum Workers International Union

> It shall be the established policy of the international union, district councils and all affiliated local unions and the membership thereof, in case of any misunderstandings or controversies with any employers or their representatives to always invoke the principle of voluntary mediation, conciliation and arbitration before resorting to any other methods whatsoever.

* * *

American Flint Glass Workers' Union of North America

> Grievances that proceed through their proper channels or steps as outlined in a local union's contract, that has been negotiated under the guidance and direction of the international office, and the grievance procedure calls for arbitration as the final and conclusive step, then the union's share of expenses incurred in obtaining and receiving the services of an arbitrator shall be borne by the international union, providing that the grievance is processed into arbitration with the approval and advice of the international office. If a grievance is processed into arbitration without the approval and advice of the international office, then the cost shall be borne by the local union taking such action.

* * *

Retail Clerks International Association

> In the event of a dispute concerning the interpretation, application or enforcement of a collective bargaining contract, efforts shall be made by the local union to amicably adjust the dispute, pursuant to the provisions of the collective bargaining contract. No strike or other economic action respecting the foregoing shall take place without the approval of the local union and the authorization of the international president, to whom a request for such approval must be directed, accompanied by a statement setting forth all pertinent facts with respect to the dispute, including the number of members directly affected.

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Amalgamated Transit Union

When any difficulty arises between the members of any L. D. /local division/ of this union and their employers, regarding wages, hours of labor, or any other question that may result in a strike or lockout, . . . the international president . . . shall . . . upon receipt of the notice of the results of the strike vote, proceed to the scene of dispute in person or by deputy, and in conjunction with the committee of the L. D., shall make a thorough investigation and attempt to settle the matter in dispute. In case of failure thus to secure a settlement he shall then, in conjunction with the Local committee, prepare propositions of arbitration defining the points in dispute and the basis upon which they shall be arbitrated. If the company refuses to accept arbitration as tendered, the I. P. or his deputy shall then communicate with the membership of the G. E. B. /general executive board/ in writing or by telegram and obtain the consent of a majority of the G. E. B. before endorsing the strike.

* * *

International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America (Ind.)

Arbitration

Section 3. In any controversy with an employer, not covered by a local union agreement, the local union shall make all reasonable efforts to settle the same through negotiation and, if it fails, through a fair arbitration tribunal. If an employer offers to arbitrate, it shall be optional with the local union to accept or reject such arbitration. However, if the local union rejects arbitration and the matter is brought to the attention of the general president, he shall ask the officers or representatives of the local union to appear before him or his representative or in some other manner to explain their reason for refusal. If the general president is satisfied that, the local union is not justified in refusing arbitration, then the general president shall submit the matter to the general executive board, and if the general executive board is of the opinion that the local union should arbitrate, it may so decide; whereupon the local union shall proceed to carry out the decision of the general executive board.

Specific bans on arbitration of new contract terms were found in the constitutions of three printing trades unions, and, in another, such arrangements required the approval of the international union. Two of the unions extended the ban to "union laws" and one to the right to represent workers within its jurisdiction.

International Brotherhood of Bookbinders

All local union contracts shall contain an arbitration clause. Such arbitration clause shall apply only to the interpretation of any clause in such contract which might come into dispute.

* * *

International Typographical Union

Sec. 33. When disputes involving interpretation and enforcement of the terms of an approved contract between local unions and employers cannot be settled by the parties to the contract the matter may be arbitrated through joint standing committee procedures provided therein.

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Sec. 34. Local unions shall not submit the terms of a succeeding contract PROPOSAL to arbitration until first obtaining approval of the Executive Council as to the subject matter which may be arbitrated and as to the procedure to be followed.

Sec. 35. It is imperatively ordered that the executive officers of the International Typographical Union shall not submit any of its laws to arbitration. Nor shall any subordinate union arbitrate whether or not any general law of the International Typographical Union shall be effective, but arbitration may be had as to the applicability of the laws to the facts involved.

Sec. 36. It is further provided that no joint arbitration agreement be entered into with an employers' association by the International Typographical Union, unless said agreement shall have first been approved by a majority vote of the membership in a referendum vote.

* * *

International Stereotypers' and Electrotypers' Union of North America

It is imperatively ordered that the executive officers of the I.S. and E.U. shall not submit any of its laws to arbitration.

It shall be mandatory that all local unions shall refuse to agree to any contract, containing any clause, providing for the arbitration of a new contract.

* * *

American Newspaper Guild

No contract shall provide for renewal by arbitration or for arbitration of the Guild's right to represent employees within its jurisdiction.

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Appendix B. Text of Federal Mediation and Conciliation Service Arbitration Policies, Functions, and Procedures, and Voluntary Labor Arbitration Rules of the American Arbitration Association

Text of Regulations Part 1404, dealing with arbitration policies, functions, and procedures, as last revised by the Director of the Federal Mediation and Conciliation Service, effective January 8, 1957.

Part 1404—Arbitration

Sec.

AUTHORITY: Secs. 1404.1 to 1404.13 issued under Sec. 202, 61 Stat. 153, as amended; 29 U.S.C. 172. Interpret or apply Sec. 3, 60 Stat. 238, Sec. 203, 61 Stat. 153; 5 U.S.C. 1002, 29 U.S.C. 173.

Sec. 1404.1—Arbitration

The labor policy of the United States Government is designed to foster and promote free collective bargaining. Voluntary arbitration and factfinding are tools, in appropriate cases, of free collective bargaining and may be desirable alternatives to economic strife. The parties assume broad responsibilities for the success of the private juridical system they have chosen. The Service will assist the parties in their selection of arbitrators.

Sec. 1404.2—Composition of roster maintained by the service

It is the policy of the Service to maintain on its roster only those arbitrators who are experienced, qualified, and acceptable, and who adhere to ethical standards.

Applicants for inclusion on its roster must not only be well-grounded in the field of labor-management relations, but, also, possess experience in the labor arbitration field or its equivalent. (Arbitrators employed full time as representatives of management or labor are not included on the Service's roster.) After a careful screening and evaluation of the applicant's experience, the Service contacts representatives of both labor and management, as qualified arbitrators must be acceptable to those who utilize its arbitration facilities. The responses to such inquiries are carefully weighed before an otherwise qualified arbitrator is included on the Service's roster.

Sec. 1404.3—Security status

The arbitrators on the Service's roster are not employees of the Federal Government, and, because of this status, the Service does not investigate their security status. Moreover, when an arbitrator is selected by the parties, he is retained by them and, accordingly, they must assume complete responsibility for the arbitrator's security status.

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Sec. 1404.4—Procedures; how to request arbitration services

The Service prefers to act upon a joint request which should be addressed to the Director of the Federal Mediation and Conciliation Service, Washington 25, D. C. In the event that the request is made by only one party, the Service may act if the parties have agreed that either of them may seek a panel of arbitrators. A brief statement of the nature of the issues in dispute should accompany the request, to enable the Service to submit the names of arbitrators of specialized competence. The request should also include a copy of the collective bargaining agreement or stipulation. In the event that the entire agreement is not available, a verbatim copy of the provisions relating to arbitration should accompany the request.

Sec. 1404.5—Arbitrability

Where either party claims that a dispute is not subject to arbitration, the Service will not decide the merits of such claim. The submission of a panel should not be construed as anything more than compliance with a request.

Sec. 1404.6—Nominations of arbitrators

When the parties have been unable to agree on an arbitrator, the Service will submit to the parties the names of three, five, seven or more arbitrators, as requested, or will make a direct appointment upon being duly advised that a panel is not desired. Together with the submission of a panel of suggested arbitrators, the Service furnishes a short statement of the background, qualifications, and experience of each of the nominees.

In selecting names for inclusion on a panel, the Service considers many factors, but the desires of the parties are, of course, the foremost consideration. If at any time a company or a union, or both, suggests that a name or names be omitted from a panel, such name or names will generally be omitted. The Service will not, however, place names on a panel at the request of one party unless the other party has knowledge of such request and has no objection thereto, or unless both parties join in such request. If the issue described in the request appears to require special technical experience or qualifications, arbitrators who possess such qualifications will, where possible, be included in the list submitted to the parties. Where the parties expressly request that the list be composed entirely of technicians, or that it be all-local or non-local, such request will be honored, if qualified arbitrators are available.

Two of the methods of selection from a panel are—(1) at a joint meeting, alternately striking names from the submitted panel until one remains, and (2) each party separately advising the Service of its order of preference by numbering each name on the panel. In almost all cases, an arbitrator is chosen from one panel of names. However, if a request for another panel is made, the Service will comply with the request, providing that additional panels are permissible under the terms of the agreement or the parties so stipulate. Subsequent adjustment of disputes is not precluded by the submission of a panel or an appointment. A substantial number of issues are being settled by the parties themselves after the initial request for a panel and after selection of the arbitrator. Notice of such settlement should be sent promptly to the arbitrator and to the Service.

The arbitrator should be compensated whenever he receives insufficient notice of settlement to enable him to rearrange his schedule of arbitration hearings or working hours.

Sec. 1404.7—Appointment of arbitrators

After the parties notify the Service of their selection, the arbitrator is appointed by the director. If any party fails to notify the Service within 15 days after the date of mailing the panel, all persons named therein shall be deemed acceptable to such party. The arbitrator, upon appointment notification, is requested to communicate with the parties immediately to arrange for preliminary matters such as date and place of hearing. There is an advantage to the parties of advising the Service of the arbitrator selected, as the standards and procedures established by the Service, including those governing the range of fees, apply to the appointed arbitrator. Also, the names of arbitrators who have not completed a pending arbitration are not ordinarily included on panels requested by the same parties.

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Sec. 1404.8—Status of arbitrators after appointment

After appointment, the legal relationship of arbitrators is with the parties rather than the Service, though the Service does have a continuing interest in the proceedings. Industrial peace and good labor relations are enhanced by arbitrators who function justly, expeditiously and impartially so as to obtain and retain the respect, esteem and confidence of all participants in the arbitration proceedings. The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, subject to such rules of procedure as the parties may jointly prescribe. He is to make his own decisions and write his own opinions based on the record in the proceedings. He may not delegate this duty and responsibility to others in whole or in part without the knowledge and prior consent of both parties. The powers of the arbitrators may be exercised by a majority unless otherwise provided by agreement or by law, and, unless prohibited by law, they may proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. The award, however, must be supported by evidence as an award cannot be based soley upon the default of a party.

Sec. 1404.9—Prompt decision

Early hearing and decision of industrial disputes is desirable in the interest of good labor relations. The parties should inform the Service whenever a decision is unduly delayed. The Service expects to be notified if and when (1) an arbitrator cannot schedule, hear and determine issues promptly, and (2) he is advised that a dispute has been settled by the parties prior to arbitration. The arbitrator is also expected to keep the Service informed of changes in address, occupation or availability, and of any business connections with or of concern to labor or management.

The award shall be made not later than 30 days from the date of the closing of the hearing, or the receipt of a transcript and any post-hearing briefs, or if oral hearings have been waived, then from the date of receipt of the final statements and proof by the arbitrator, unless otherwise agreed upon by the parties or specified by law. However, a failure to make such an award within 30 days shall not invalidate an award. The Service, however, when nominating arbitrators, takes notice of any arbitrator's failure to comply with its policies and procedures.

The parties can expedite awards. They may advise the Service and the arbitrator if an early decision is desired. If such notice is given, the Service will so advise the arbitrator at the time of his appointment. The parties can also request that an opinion follow the award, or that an opinion be omitted in appropriate cases. The parties may also provide in their agreement or in their arbitration stipulation or request that an award must be rendered within a fixed time after the close of the hearing in order to be valid, unless the time is enlarged by agreement of the parties. Such a provision, however, would operate to nullify an award made after such period of time and should therefore be carefully drafted so as not to cause hasty and ill-considered decisions.

Sec. 1404.10—Importance of impartiality

Interviews with or communications by the arbitrator to and from one party without the knowledge and consent of the other party, are easily misunderstood and should be avoided since they can result in a loss of confidence in the integrity, fairness and judgment of the arbitrator. Likewise, the arbitrator should refrain from giving unsolicited advice in his opinion, or award or other document for the same reason. Arbitrators are called upon to decide issues which the parties have been unable to resolve and, consequently, difficult decisions are inevitable. Their acceptability can be advanced not alone by the soundness of the decisions, but also by the orderly and impartial manner in which the entire arbitration proceeding is conducted.

Sec. 1404.11—Arbitrator's award report

At the conclusion of the hearing and after the award has been submitted to the parties, each arbitrator is required to file a copy with the Service. The Service then evaluates awards with a view to determining whether they meet the accepted professional standards as to form, clarity and logic. The arbitrator is further required to submit a report showing a breakdown of his fees and expense charges so that the Service may be in a position to check conformance with its fee policies. Cooperation in filing both award and report within 15 days after handing down the award is expected of all arbitrators.

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It is the policy of the Service not to release arbitration decisions for publication without the consent of both parties. Furthermore, the Service expects the arbitrators it has nominated or appointed not to give publicity to awards they may issue, except in a manner agreeable to both parties.

Sec. 1404.12—Fees of arbitrators

No administrative or filing fee is charged since the Service is required by law to provide such facilities. The current policy of the Service permits its nominees or appointees to charge a fee for their services not exceeding $150 per day. The Service expects its arbitrators in fixing the fee for a case to give due consideration to the financial condition of each party, the accepted standards for the area in which the dispute arises, the complexity of the issues involved and the length of time consumed preliminary to and in the course of the hearing; in the study of the evidence and preparation of the award.

In those rare instances where arbitrators fix wages or other terms of a new contract, the responsibilities involved are so grave that the arbitrators are not subject to the above fee restriction. The parties may prefer to agree with the arbitrator upon a fixed fee in advance of the arbitration. This, however, could result in unnecessarily prolonging an arbitration hearing.

The parties can reduce the cost of arbitration by the careful preparation of exhibits and evidence and by the stipulation of undisputed facts. The parties may also stipulate that the arbitrator devote not more than a specified number of days to the study and preparation of the opinion and award. There is, however, some risk in so doing since the award and opinion may not be satisfactory or sufficiently clear if such restriction is made in other than simple, routine cases.

The Service is not concerned with whether the fees and expenses of the arbitrator are paid by only one of the parties or are divided between them. Nevertheless, unless the parties agree otherwise, (1) the fee and expenses of the arbitrator shall be paid equally by the parties, (2) the expenses of witnesses for either side shall be paid by the parties producing such witnesses, (3) the total cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally by all parties ordering copies, and (4) the expenses of any witnesses or the cost of any briefs produced at the direct request of the arbitrator, shall be borne equally by the parties unless the arbitrator in his award assesses such expenses or any part thereof against any specified party or parties.

Sec. 1404.13—Conduct of hearings

The service does not prescribe detailed or specific rules of procedure for the conduct of an arbitration proceeding because it favors flexibility in labor relations. It believes that the parties and experienced arbitrators know best how arbitration proceedings should be conducted if wise decisions and industrial peace are to be achieved. Questions such as hearing rooms, submission of pre-hearing or post-hearing briefs, and recording of testimony, are left to the discretion of the individual arbitrator and the parties. The Service does, however, expect its arbitrators and the parties to conform to applicable laws, and to be guided by ethical and procedural standards as codified by appropriate professional organizations and generally accepted by the industrial community and experienced arbitrators.

In cities where the Service maintains offices, the parties are welcome upon request to the Service to use its conference rooms when they are available.

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American Arbitration Association Voluntary Labor Arbitration Rules[36]

1. Agreement of Parties—The parties shall be deemed to have made these rules a part of their arbitration agreement whenever, in a collective bargaining agreement or submission, they have provided for arbitration by the American Arbitration Association (hereinafter AAA) or under its rules. These rules shall apply in the form obtaining at the time the arbitration is initiated.

2. Name of Tribunal—Any tribunal constituted by the parties under these rules shall be called the Voluntary Labor Arbitration Tribunal.

3. Administrator—When parties agree to arbitrate under these rules and an arbitration is instituted thereunder, they thereby authorize the AAA to administer the arbitration. The authority and obligations of the administrator are as provided in the agreement of the parties and in these rules.

4. Delegation of Duties—The duties of the AAA may be carried out through such representatives or committees as the AAA may direct.

5. National Panel of Labor Arbitrators—The AAA shall establish and maintain a National Panel of Labor Arbitrators and shall appoint arbitrators therefrom, as hereinafter provided.

6. Office of Tribunal—The general office of the Labor Arbitration Tribunal is the headquarters of the AAA, which may, however, assign the administration of an arbitration to any of its regional offices.

7. Initiation Under an Arbitration Clause in a Collective Bargaining Agreement—Arbitration under an arbitration clause in a collective bargaining agreement under these rules may be initiated by either party in the following manner:

(a) By giving written notice to the other party of intention to arbitrate (demand), which notice shall contain a statement setting forth the nature of the dispute and the remedy sought, and

(b) By filing at any regional office of the AAA two copies of said notice, together with a copy of the collective bargaining agreement, or such parts thereof as relate to the dispute, including the arbitration provisions. After the arbitrator is appointed, no new or different claim may be submitted to him except with the consent of the arbitrator and all other parties.

8. Answer—The party upon whom the demand for arbitration is made may file an answering statement with the AAA within 7 days after notice from the AAA, in which event he shall simultaneously send a copy of his answer to the other party. If no answer is filed within the stated time, it will be assumed that the claim is denied. Failure to file an answer shall not operate to delay the arbitration.

9. Initation under a Submission—Parties to any collective bargaining agreement may initiate an arbitration under these rules by filing at any regional office of the AAA two copies of a written agreement to arbitrate under these rules (submission), signed by the parties and setting forth the nature of the dispute and the remedy sought.

10. Fixing of Locale—The parties may mutually agree upon the locale where the arbitration is to be held. If the locale is not designated in the collective bargaining agreement or submission, and if there is a dispute as to the appropriate locale, the AAA shall have the power to determine the locale and its decision shall be binding.

11. Qualifications of Arbitrator—No person shall serve as a neutral arbitrator in any arbitration in which he has any financial or personal interest in the result of the arbitration, unless the parties, in writing, waive such disqualification.

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[36] As amended and in effect Feb. 1, 1965.

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12. Appointment from Panel—If the parties have not appointed an arbitrator and have not provided any other method of appointment, the arbitrator shall be appointed in the following manner: Immediately after the filing of the demand or submission, the AAA shall submit simultaneously to each party an identical list of names of persons chosen from the labor panel. Each party shall have 7 days from the mailing date in which to cross off any names to which he objects, number the remaining names indicating the order of his preference, and return the list to the AAA. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an arbitrator to serve. If the parties fail to agree upon any of the persons named or if those named decline or are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the administrator shall have power to make the appointment from other members of the panel without the submission of any additional lists.

13. Direct Appointment by Parties—If the agreement of the parties names an arbitrator or specifies a method of appointing an arbitrator, that designation or method shall be followed. The notice of appointment, with the name and address of such arbitrator, shall be filed with the AAA by the appointing party.

If the agreement specifies a period of time within which an arbitrator shall be appointed, and any party fails to make such appointment within that period, the AAA may make the appointment.

If no period of time is specified in the agreement, the AAA shall notify the parties to make the appointment and if within 7 days thereafter such arbitrator has not been so appointed, the AAA shall make the appointment.

14. Appointment of Neutral Arbitrator by Party-Appointed Arbitrators—If the parties have appointed their arbitrators, or if either or both of them have been appointed as provided in section 13, and have authorized such arbitrators to appoint a neutral arbitrator within a specified time and no appointment is made within such time or any agreed extension thereof, the AAA may appoint a neutral arbitrator, who shall act as chairman.

If no period of time is specified for appointment of the neutral arbitrator and the parties do not make the appointment within 7 days from the date of the appointment of the last party-appointed arbitrator, the AAA shall appoint such neutral arbitrator, who shall act as chairman.

If the parties have agreed that the arbitrators shall appoint the neutral arbitrator from the panel, the AAA shall furnish to the party-appointed arbitrators, in the manner prescribed in section 12, a list selected from the panel, and the appointment of the neutral arbitrator shall be made as prescribed in such section.

15. Number of Arbitrators—If the arbitration agreement does not specify the number of arbitrators, the dispute shall be heard and determined by one arbitrator, unless the parties otherwise agree.

16. Notice to Arbitrator of His Appointment—Notice of the appointment of the neutral arbitrator shall be mailed to the arbitrator by the AAA and the signed acceptance of the arbitrator shall be filed with the AAA prior to the opening of the first hearing.

17. Disclosure by Arbitrator of Disqualification—Prior to accepting his appointment, the prospective neutral arbitrator shall disclose any circumstances likely to create a presumption of bias or which he believes might disqualify him as an impartial arbitrator. Upon receipt of such information, the AAA shall immediately disclose it to the parties. If either party declines to waive the presumptive disqualification, the vacancy thus created shall be filled in accordance with the applicable provisions of these rules.

18. Vacancies—If any arbitrator should resign, die, withdraw, refuse or be unable or disqualified to perform the duties of his office, the AAA shall, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in the same manner as that governing the making of the original appointment, and the matter shall be reheard by the new arbitrator.

19. Time and Place of Hearing—The arbitrator shall fix the time and place for each hearing. At least 5 days prior thereto the AAA shall mail notice of the time and place of hearing to each party, unless the parties otherwise agree.

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20. Representation by Counsel—Any party may be represented at the hearing by counsel or by other authorized representative.

21. Stenographic Record—The AAA will make the necessary arrangements for the taking of an official stenographic record of the testimony whenever such record is requested by one or more parties. The requesting party or parties shall pay the cost of such record directly to the reporting agency in accordance with their agreement.

22. Attendance at Hearings—Persons having a direct interest in the arbitration are entitled to attend hearings. The arbitrator shall have the power to require the retirement of any witness or witnesses during the testimony of other witnesses. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other persons.

23. Adjournments—The arbitrator for good cause shown may adjourn the hearing upon the request of a party or upon his own initiative, and shall adjourn when all the parties agree thereto.

24. Oaths—Before proceeding with the first hearing, each arbitrator may take an oath of office, and if required by law, shall do so. The arbitrator may, in his discretion, require witnesses to testify under oath administered by any duly qualified person, and if required by law or requested by either party, shall do so.

25. Majority Decision—Whenever there is more than one arbitrator, all decisions of the arbitrators shall be by majority vote. The award shall also be made by majority vote unless the concurrence of all is expressly required.

26. Order of Proceedings—A hearing shall be opened by the filing of the oath of the arbitrator, where required, and by the recording of the place, time and date of hearing, the presence of the arbitrator and parties, and counsel if any, and the receipt by the arbitrator of the demand and answer, if any, or the submission.

Exhibits, when offered by either party, may be received in evidence by the arbitrator. The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

The arbitrator may, in his discretion, vary the normal procedure under which the initiating party first presents his claim, but in any case shall afford full and equal opportunity to all parties for presentation of relevant proofs.

27. Arbitration in the Absence of a Party—Unless the law provides to the contrary, the arbitration may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The arbitrator shall require the other party to submit such evidence as he may require for the making of an award.

28. Evidence—The parties may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary to an understanding and determination of the dispute. When the arbitrator is authorized by law to subpoena witnesses and documents, he may do so upon his own initiative or upon the request of any party. The arbitrator shall be the judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all of the arbitrators and all of the parties except where any of the parties is absent in default or has waived his right to be present.

29. Evidence by Affidavit and Filing of Documents—The arbitrator may receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as he deems proper after consideration of any objections made to its admission.

All documents not filed with the arbitrator at the hearing but which are arranged at the hearing or subsequently by agreement of the parties to be submitted, shall be filed with the AAA for transmission to the arbitrator. All parties shall be afforded opportunity to examine such documents.

30. Inspection—Whenever the arbitrator deems it necessary, he may make an inspection in connection with the subject matter of the dispute after written notice to the parties who may, if they so desire, be present at such inspection.

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31. Closing of Hearings—The arbitrator shall inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the arbitrator shall declare the hearings closed and a minute thereof shall be recorded. If briefs or other documents are to be filed, the hearings shall be declared closed as of the final date set by the arbitrator for filing with the AAA. The time limit within which the arbitrator is required to make his award shall commence to run, in the absence of other agreement by the parties, upon the closing of the hearings.

32. Reopening of Hearings—The hearings may be reopened by the arbitrator on his own motion, or on the motion of either party, for good cause shown, at any time before the award is made, but if the reopening of the hearing would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless both parties agree upon the extension of such time limit. When no specific date is fixed in the contract, the arbitrator may reopen the hearings, and the arbitrator shall have 30 days from the closing of the reopened hearings within which to make an award.

33. Waiver of Rules—Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been compiled with and who fails to state his objection thereto in writing, shall be deemed to have waived his right to object.

34. Waiver of Oral Hearing—The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the AAA shall specify a fair and equitable procedure.

35. Extensions of Time—The parties may modify any period of time by mutual agreement. The AAA for good cause may extend any period of time established by these rules, except the time for making the award. The AAA shall notify the parties of any such extension of time and its reason therefor.

36. Serving of Notices—Each party to a submission or other agreement which provides for arbitration under these rules shall be deemed to have consented and shall consent that any papers, notices or process necessary or proper for the initiation or continuation of an arbitration under these rules and for any court action in connection therewith or the entry of judgment on an award made thereunder, may be served upon such party (a) by mail addressed to such party or his attorney at his last known address, or (b) by personal service, within or without the state wherein the arbitration is to be held.

37. Time of Award—The award shall be rendered promptly by the arbitrator and, unless otherwise agreed by the parties, or specified by the law, not later than 30 days from the date of closing the hearings, or if oral hearings have been waived, then from the date of transmitting the final statements and proofs to the arbitrator.

38. Form of Award—The award shall be in writing and shall be signed either by the neutral arbitrator or by a concurring majority if there be more than one arbitrator. The parties shall advise the AAA whenever they do not require the arbitrator to accompany the award with an opinion.

39. Award Upon Settlement—If the parties settle their dispute during the course of the arbitration, the arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

40. Delivery of Award to Parties—Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at his last known address or to his attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

41. Release of Documents for Judicial Proceedings—The AAA shall, upon the written request of a party, furnish to such party at his expense certified facsimiles of any papers in the AAA's possession that may be required in Judicial proceedings relating to the arbitration.

42. Judicial Proceedings—The AAA is not a necessary party in judicial proceedings relating to the arbitration.

43. Administrative Fee—As a nonprofit organization, the AAA shall prescribe an administrative fee schedule to compensate it for the cost of providing administrative services. The schedule in effect at the time of filing shall be applicable.

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44. Expenses—The expenses of witnesses for either side shall be paid by the party producing such witnesses.

Expenses of the arbitration, other than the cost of the stenographic record, including required traveling and other expenses of the arbitrator and of AAA representatives, and the expenses of any witnesses or the cost of any proofs produced at the direct request of the arbitrator, shall be borne equally by the parties unless they agree otherwise, or unless the arbitrator in his award assesses such expenses or any part thereof against any specified party or parties.

45. Communication with Arbitrator—There shall be no communication between the parties and a neutral arbitrator other than at oral hearings. Any other oral or written communications from the parties to the arbitrator shall be directed to the AAA for transmittal to the arbitrator.

46. Interpretation and Application of Rules—The arbitrator shall interpret and apply these rules insofar as they relate to his power and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of any such rules, it shall be decided by majority vote. If that is unobtainable, either arbitrator or party may refer the question to the AAA for final decision. All other rules shall be interpreted and applied by the AAA.

Administrative Fee Schedule

Initial Administrative Fee: The initial administrative fee is $30 for each party, due and payable at the time of filing.

Expense Adjustment: An additional fee of $3 is also payable by each party. This expense adjustment is to reimburse the AAA for postage and telephone expenses.

Additional Hearings: A fee of $30 is payable by each party for each second and subsequent hearing which is either clerked by the AAA or held in a hearing room provided by the AAA.

Postponement Fees: A fee of $5 is payable by a party causing a postponement of any scheduled hearing.

Overtime: A fee of $3 per hour is payable by each party for hearings held on Saturdays, legal holidays, or after 6 p.m. on weekdays; provided these hearings are either clerked by the AAA or held in a hearing room provided by the AAA.

Regional Managers and Representatives

Boston, John W. Church—44 School Street
Charlotte, J.B. Shatzer—Baugh Building
Chicago, Allen K. Miller—140 South Dearborn Street
Cincinnati, Phillip E. Vutech—548 Carew Tower
Cleveland, Warren L. Taylor—2800 Euclid Avenue
Dallas, Helmut O. Wolff—1607 Main Street
Denver, Frank Plaut—7180 West 14th Avenue, Lakewood
Detroit, Mrs. L.P. Herrscher—1064 Penobscot Building
Hartford, J. Robert Haskell—37 Lewis Street
Los Angeles, Tom Stevens—2333 Beverly Boulevard
Miami, Edward A. DeGross—2451 Brickell Avenue
New York, Michael F. Hoellering—140 West 51st Street
Philadelphia, Arthur R. Mehr—1414 Lewis Tower Building
Pittsburgh, John F. Schano—One Gateway Center
San Francisco, Robert D. Charlebois—351 California Street
Seattle, Robert J. Ahern—1411 Fourth Avenue Building
Syracuse, Robert G. Bowling—731 James Street
Washington, Brackley Shaw—910 17th Street, NW

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Appendix C. Selected Arbitration Provisions Reproduced in Full

From the agreement between
GENERAL ELECTRIC COMPANY and the
INTERNATIONAL UNION OF ELECTRICAL,
RADIO AND MACHINE WORKERS
(expiration date October 1966)

Grievance Procedure

1. Grievances may be filed by an employee or group of employees, a steward or the local. Grievances of a general nature filed by the local shall be initiated at the second step of the grievance procedure. . . .

Strikes and Lockouts—1. There shall be no strike, sit-down, slowdown, employee demonstration or any other organized or concerted interference with work of any kind in connection with any matter subject to the grievance procedure, and no such interference with work shall be directly or indirectly authorized or sanctioned by a local or the union, or their respective officers or stewards, unless and until all of the respective provisions of the successive steps of the grievance procedure set forth in article XIII shall have been complied with by the local and the union, or if the matter is submitted to arbitration as provided in article XV.

2. The company will not lock out any employee or transfer any job under dispute from the local works, nor will the local management take similar action while a disputed job is under discussion at any of the steps of the grievance procedure set forth in article XIII, or if the matter is submitted to arbitration as provided in article XV.

Arbitration

1. Any grievance which remains unsettled after having been fully processed pursuant to the provisions of article XIII [grievance procedure], and which involves either,

(a) The interpretation or application of a provision of this agreement, or

(b) A disciplinary penalty (including discharge) imposed on or after the effective date of this agreement, which is alleged to have been imposed without just cause,

may be submitted to arbitration upon written request of either the union or the company, provided such request is made within 60 days after the final decision of the company has been given to the union pursuant to article XIII, section 2(c). For the purpose of proceedings within the scope of (b) above, the standard to be applied by an arbitrator to cases involving disciplinary penalties (including discharge) is that such penalties shall be imposed only for just cause.

2. (a) A request for arbitration shall state in reasonable detail the nature of the dispute and the remedy requested. A copy of the request shall be sent to the American Arbitration Association.

(b) Within 30 days after receipt of a request to arbitrate, the receiving party will give its response thereto in writing, with a copy to the association, stating whether or not it believes the stated dispute to be arbitrable. If the receiving party believes the dispute not to be arbitrable, it will state its reasons in reasonable detail.

(c) If the response agrees to the arbitrability of the dispute, the association will proceed to process the request in accordance with section 3.

(d) If a response to a request for arbitration disagrees as to arbitrability of the dispute, either party may request a conference to discuss the arbitrability of the dispute, and to seek to resolve the differences between the parties.

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3. (a) When a request for arbitration involves only relief from a disciplinary penalty or discharge alleged to have been imposed without just cause, or involves a dispute which the company admits to be arbitrable, or when a final court judgment shall have ordered arbitration of a request, the association shall submit the appropriate matter promptly to one of the contract arbitrators listed below for scheduling of a hearing thereon.

The contract arbitrators shall serve for the duration of this agreement. The association will assign each arbitration case in rotation, in order of contract arbitrators listed below. If a contract arbitrator states that he is unable to accept a case, it will be referred to the next contract arbitrator in line. In the event one or more of the contract arbitrators shall be unable to continue to serve as such, a replacement or replacements will be named from the list of alternates set out below, in the order indicated. Any such alternate who is named as a replacement shall have the duties and powers of the contract arbitrator for whom he is the replacement.

Whenever the number of unresolved arbitration requests assigned to a contract arbitrator shall exceed three, any additional requests which would otherwise be assigned him in order of rotation shall be referred to the next contract arbitrator in line. If at any time, each of the five contract arbitrators shall have three unresolved arbitration requests assigned to him, any additional requests will be assigned to the alternates in rotation, until such time as one or more of the contract arbitrators shall have less than three unresolved arbitration requests. The parties may, by mutual agreement, provide that more than three unresolved arbitration requests be assigned to one contract arbitrator at one time. In the event that at any time, each of the contract arbitrators and each of the alternates shall have three unresolved arbitration requests assigned, then the number "three" in the first two sentences of this paragraph shall be raised to "four."

Contract arbitrators	Alternates
Leo C. Brown, S.J.	Joseph Brandschain
Sidney Cahn	Charles Gregory
William Gomberg	James Healy
Emanuel Stein	Robert Kortez
Abram Stockman	Louis Yagoda

(b) Only one request shall be scheduled for the same arbitration hearing, except by mutual agreement of the parties.

(c) In the conduct of an arbitration hearing, the applicable provisions of the Voluntary Labor Arbitration Rules of the Association shall control, except that either party may, if it desires, be represented by counsel.

(d) The dispute as stated in the request for arbitration shall constitute the sole and entire subject matter to be heard by the arbitrator, unless the parties agree to modify the scope of the hearing.

4. (a) In the event the receiving party has asserted that the dispute contained in a request for arbitration is not arbitrable, the association shall have authority to process the request for arbitration and appoint an arbitrator in accordance with the procedure set forth in section 3 above only after a final judgment of a court has determined that the grievance upon which arbitration has been requested raises arbitrable issues and has directed arbitration of such issues. The foregoing part of this section shall not be applicable if the request for arbitration involves only relief from a disciplinary penalty or discharge alleged to have been imposed without just cause.

(b) In the consideration and decision of any question involving arbitrability (including any application to a court for an order directing arbitration), it is the specific agreement of the parties that:

(i) Some types of grievance disputes which may arise during the term of this agreement shall be subject to arbitration as a matter of right, enforceable in court, at the demand of either party. (See section 6.)

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(ii) Other types of disputes shall be subject only to voluntary arbitration, i.e., can be arbitrated only if both parties agree in writing, in the case of each dispute, to do so. (See section 7.)

(iii) This agreement sets out expressly all the restrictions and obligations assumed by the respective parties, and no implied restrictions or obligations inhere in this agreement or were assumed by the parties in entering into this agreement.

(iv) In the consideration of whether a matter is subject to arbitration as a matter of right, a fundamental principle shall be that the company retains all its rights to manage the business, including (but not limited to) the right to determine the methods and means by which its operations are to be carried on, to direct the work force and to conduct its operations in a safe and effective manner, subject only to the express limitations set forth in this national agreement, local seniority supplements executed under the provisions of article XI thereof and local understandings executed in accordance with section 3 of article XXI thereof; and it is understood that the parties have not agreed to arbitrate demands which challenge action taken by the company in the exercise of any such rights, except where such challenge is based upon a violation of any such express limitations (other than those set out in section 7).

(v) No matter will be considered arbitrable unless it is found that the parties clearly agreed that the subject involved would be arbitrable in light of the principles of arbitrability set forth in this article and no court or arbitrator shall or may proceed under any presumption that a request to arbitrate is arbitrable.

(c) If a final judgment of a court has determined that a request raises arbitrable issues, the court's decision shall specify in reasonable detail the issues as to which arbitration is directed. The arbitration shall thereafter proceed only upon the issues specified in such final court judgment and the arbitrator shall have no authority or jurisdiction to consider issues other than those specified.

5. The award of an arbitrator upon any grievance subject to arbitration as herein provided shall be final and binding upon all parties to this agreement, provided that no arbitrator shall have any authority or jurisdiction to add to, detract from, or in any way alter the provisions of this agreement.

6. (a) Arbitration as a matter of right includes only requests to arbitrate which involve:

(i) Disciplinary action (including discharge) but with certain exceptions spelled out in this article;

(ii) The claimed violation of a specific provision or provisions of the national agreement (with the limitations and exceptions set out in this article);

(iii) The claimed violation of a provision or provisions of a signed local seniority supplement entered into in accordance with article XI section 2 of this national agreement or of a provision or provisions of a local understanding entered into in accordance with article XXI, section 3 of this national agreement.

(b) A request for arbitration, in order to be subject to arbitration as a matter of right under the provisions of subsection (a) (ii) and (a) (iii) above, must allege a direct violation of the express purpose of the contractual provision in question, rather than of an indirect or implied purpose. For example, a request which claims incorrect application of the method of computing overtime pay under the provisions of section 2 of article V would be arbitrable as a matter of right, whereas a request which questioned the right of the company to require the performance of reasonable overtime work, on the claimed ground that article V contains an implied limitation of that right, would be subject only to voluntary arbitration. A request that article XI /layoff and retire/ and the appropriate local seniority supplement had been violated by the layoff of a senior employee in preference to a junior employee would be arbitrable as a matter of right but a request that subcontracting of work in the plant while bargaining unit employees are on layoff violated acclaimed implied limitation of article XI and the applicable local seniority supplement would be subject only to voluntary arbitration.

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7. All requests for arbitration which are not subject to arbitration as a matter of right under the provisions of section 6, are subject only to voluntary arbitration. In particular, it is specifically agreed that arbitration requests shall be subject only to voluntary arbitration, by mutual agreement, if they

(a) Involve the existence or alleged violation of any agreement other than those described in 6(a).

(b) Involve issues which were discussed at national level negotiations, but which are not expressly covered in this national agreement (e.g., subcontracting).

(c) Involve claims that an allegedly implied or assumed obligation of this national agreement has been violated.

(d) Involve claims that article I /union recognition/, or section 3 of article IV /no discrimination/ of this national agreement has been violated.

(e) Would require an arbitrator to consider, rule on or decide the appropriate hourly, salary or incentive rate at which an employee shall be paid, or the method (day, salary or incentive) by which his pay shall be determined. (See footnote.)

(f) Would require an arbitrator to consider, rule on or decide any of the following:

(i) The elements of an employee's job assignment;

(ii) The level, title or other designation of an employee's job classification;

(iii) The right of management to assign or reassign work or elements of work. (See footnote.)

(g) Would require an arbitrator to determine the method or data to be used by the company in setting an incentive price or standard. (See footnote.)

(h) Involve claims of violation of sections 1 and 2 of article XI /layoff and rehire/, in locations in which a Local Seniority Supplement has not been signed in accordance with section 2 of article XI.

(i) Pertain in any way to the establishment, administration, interpretation or application of insurance, pension or savings plans, or other benefit plans in which employees covered by this agreement are eligible to participate;

(j) Involve discipline or discharge imposed on employees having less than 6 months of service credits with the company, provided that if by local understanding a period of less than 6 months has been agreed upon as the probationary period for new employees, and such local understanding is applicable to the particular employee involved, such agreed upon shorter period of time shall be substituted for "6 months" in the foregoing; and provided further that nothing in this subsection shall limit the authority of an arbitrator with respect to disciplinary penalties or discharges imposed in violation of section 1 of article IV /no discrimination because of union affiliation/.

(k) Pertain in any way to article XXII /income extension aid/ of this agreement or its interpretation or application.

(l) Pertain in any way to the provisions of any local agreement covering a retraining program under the provisions of article XXIV hereof, or the interpretation or application thereof.

Footnote: Subsections e, f, and g above reflect the fact that this National Agreement does not set out specific rates or classifications for jobs, and are designed to confirm the intent of article VI, section 1 and article VI, section 5 (first sentence) that disputes over individual job classifications, rates of pay, incentive standards, etc., are assigned by the parties to local negotiations, and not to arbitration.

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8. In any case which involves discipline (including discharge) effected on the ground that an employee has refused, orally or otherwise, to perform an assigned task, either party may, at any time before the arbitration hearing is closed, request that the arbitrator decide the matter without an opinion, in which event the arbitrator must simply determine and announce an award without stating any grounds or reasons for his decision. If an award is issued by an arbitrator in any such case, it shall be final and binding on the parties, but, to the extent that the arbitrator's opinion in support of his award interprets or applies any provision of the 1963 GE-IUE National Agreement, such opinion shall not be considered binding upon the parties, and shall not constitute a precedent for the purpose of interpreting or applying that provision of the agreement in the future.

The existence of, or any alleged violation of, a local understanding shall not be the basis of any arbitration proceeding, unless such understanding is in writing and signed by the company and union. . . .

Income Extension Aid

A grievance arising under this article may be processed in accordance with the grievance procedure set forth in article XIII. However, no matter or controversy concerning the provisions of this article or the interpretation or application thereof shall be subject to arbitration under the provisions of article XV /arbitration/ hereof, except by mutual agreement. . . .

Retraining Program

Retraining programs as appropriate for employees represented by each local are subject to negotiations between the local and local management. Any written agreements covering such retraining programs are subject to approval by the union and the company.

No matter or controversy concerning the provisions of this article or any local retraining agreement shall be arbitrable except by mutual agreement.

From the agreement between
ALUMINUM COMPANY OF AMERICA and the
ALUMINUM WORKERS INTERNATIONAL UNION
(expiration date May 1968)

Article XVIII—Procedure for Handling Grievances

Section 23. Grievance

Should an employee (or former employee within 10 working days of his dismissal, discharge, or layoff) feel that he has been treated unjustly, he or his union representative or representatives may present his grievance to the proper representative of the company who will give it prompt and thorough consideration. This may include any difference of opinion or dispute between representatives of the company and the union representatives regarding interpretation or operation of any provision of this agreement.

Article XIX—Arbitration

Section 26. Scope

Not all grievances are subject to arbitration. The scope of arbitration and the jurisdiction of the board of arbitration are defined in section 31.

Grievances may be submitted to arbitration by either party after the grievance procedure has been exhausted subject to the following principles and procedure:

Section 27. Board of Arbitration

A board of arbitration is hereby created consisting of one representative of the international union, one representative of the company, and a third party, wholly disinterested, to be appointed by them for such period of time and upon such financial and other terms as may be agreed upon. Such third party shall be entitled the umpire.

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Section 28. Duties of Board

It shall be the duty of the board to hear disputes on subjects within its jurisdiction certified to it by the union or the company after the grievance procedure of the agreement has been exhausted. Such hearings shall be held only in Pittsburgh, Pa., unless another place be unanimously designated. The board may, by unanimous vote, designate an agent or agents to hear a case or cases at any company location and to report such cases in full to the board with findings of fact, conclusions, and recommendations which the board shall upon review adopt, reject, or modify.

Section 29. Awards

All decisions or awards of the board shall be made by majority vote and shall be issued under the sole signature of the umpire.

Section 30. Finality of Awards

The decisions and awards of the board shall be final and binding upon the parties.

Section 31. Jurisdiction of Board

A. The board shall regard the provisions of this agreement as the basic principles and fundamental law governing the relationship of the parties. The board's function is to interpret the provisions of the agreement and to decide cases of alleged violation of such provisions. The board shall not supplement, enlarge, diminish, or alter the scope or meaning of the agreement as it exists from time to time, or any provisions therein, nor entertain jurisdiction of any subject matter not covered thereby (except to the extent necessary to determine its jurisdiction). Without limiting the foregoing, the subjects of wages (including incentives) and production standards are by this section excluded from arbitration, except that wage rates are arbitrable for new or changed job classifications under article V of this agreement, and except that questions of compliance with article IV (continuation of wage rates) are arbitrable.

B. Whenever the board may determine that the subject of a dispute is, or a decision or award thereon would be beyond the board's jurisdiction, or would contravene this section 31, it shall dispose of the case by reducing such determination to writing and may then refer the dispute to the parties.

C. The board shall not take jurisdiction of any dispute or grievance arising under any prior agreements.

Section 32. Costs

The compensation and expenses of the board representative of each party shall be borne by such party. The compensation and expenses of the umpire and any agents designated by the board to hear cases shall be borne equally by the parties.

Section 33. Rules

The board may by unanimous vote make such rules and regulations for the conduct of its business as do not conflict with these provisions.

Section 34. Agreement Against Strikes or Lockouts

As to any disputes subject to arbitration, the union agrees that it will not cause nor will its members take part in any strike or work stoppage, and the company agrees that it will not cause any lockout.

As to any dispute not subject to arbitration, no strike, work stoppage, or lockout will be caused or sanctioned until negotiations have continued for at least 5 days at the final step of the bargaining procedure described in article XVIII (Procedure for Handling Grievances). Thereafter any strike which occurs under such circumstances shall not be deemed to be a violation of this agreement, which shall continue to remain in full force notwithstanding such strike.

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During the life of this agreement the union will not cause nor will its members take part in any slowdown or similar interference with production.

The union agrees that the company has the right to discipline or discharge anyone guilty of violating the provisions of this section. In the event of an appeal to the board of arbitration of a grievance involving action taken under this paragraph, the board shall have the right in its discretion to affirm, reverse, or modify the disciplinary penalty.

Article III—Checkoff . . .

If an employee, certified by the union as a member asserts within 30 days of the first deduction of his dues, that he was not a member as of the date certified, the union shall, if it desires to contest such assertion, refer the dispute within 60 days to an arbitrator designated by the parties for a final and binding determination. Pending the outcome of such dispute, the deductions will continue, and the funds in question will be impounded by the company to be disbursed in accordance with the arbitrator's award.

Article V—New and Changed Job Classifications

Section 8. New Job Classifications

When a new job classification is established: . . .

The rate may be installed without agreement subject to adjustment as provided below.

. . . The employee or employees affected or their union representative or representatives may, at any time within 90 days from receipt of the proposed job description, ranking and rate, file a grievance . . . If such grievance be settled at any step of the grievance procedure or submitted to arbitration, the decision shall be effective as of the date when the employee or employees were assigned to the new job classification.

Section 9. Changed Job Classifications

When a wage rate for a changed job classification is installed, the employee or employees affected or their union representative or representatives may, at any time within 90 days from receipt of the proposed job description ranking and rate, file a grievance . . .

. . . If such grievance be settled at any step of the grievance procedure or submitted to arbitration, the decision shall be effective as of the date when the employee or employees were assigned to the changed job classification.

In the event that the company does not develop a job description, ranking and wage rate for the changed job classification . . . the union may file a grievance . . .

. . . Such grievance shall be initiated in the third step and may be processed under the grievance and arbitration procedures of the agreement. If such grievance be settled at any step of the grievance procedure or submitted to arbitration, the decision shall be effective as of the date the changed job was established, or 90 days prior to the filing of the grievance, whichever was later. . . .

Article XXIII—Group Insurance

. . . Any problems, complaints, or grievances of any employee arising under or concerning group insurance shall not be subject to or handled under the grievance or arbitration provisions of this agreement, but will be handled by the designated representatives of the company and the union at the plant.

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From the agreement between
GENERAL MOTORS CORPORATION and the
INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND
AGRICULTURAL IMPLEMENT WORKERS OF AMERICA
(expiration date August 1967)

Step Four. Appeal to Impartial Umpire

In the event of failure to adjust the case at this point /grievance appeal committee/, it may be appealed to the impartial umpire, providing it is the type of case on which the umpire is authorized to rule. Notice of appeal of such cases to the umpire by the union shall be given by the regional director to the plant management of the plant in which the case arose, with copies to the personnel staff of the corporation in Detroit and to the international union office at Detroit; in cases appealed to the umpire by the corporation, notice of such appeal will be given by the corporation to the international union office in Detroit. Cases not appealed to the umpire within 21 days from the date of a final decision given after review in an appeal committee meeting shall be considered settled on the basis of the decisions so given; provided, however, that within the 21-day time limit of this paragraph a case may be withdrawn by mutual agreement without prejudice to either party. After a case has been appealed to the umpire by either the union or the corporation, the briefs of both parties shall be filed with the umpire within 21 days from the date of receipt "Notice of Appeal."

After a case has been appealed to the umpire but prior to the umpire hearing of the case, the director of the General Motors Department of the International Union or a specified member of his staff will be granted permission to visit the plant for the purpose of investigating the specific grievance in accordance with all of the provisions of paragraph 38 regarding plant visits.

Any case appealed to the umpire involving a continuing refusal of management to return an employee to work from sick leave of absence which has continued for 26 weeks or longer, by reason of the medical findings of a physician or physicians acting for the corporation, will be reviewed between the corporation and the international union, if such findings are in conflict with the findings of the employee's personal physician with respect to whether the employee is able to do a job to which he is entitled in line with his seniority. Failing to resolve the question, the parties may by mutual agreement, refer the employee to a clinic or physician mutually agreed upon whose decision with respect to whether the employee is or is not able to do a job to which he is entitled in line with his seniority shall be final and binding upon the union, the employee involved and the corporation. The expense of such examination shall be paid one-half by the corporation and one-half by the union. Any retroactive pay due the employee shall be limited to a period commencing with the date of filing of the grievance, or the date the employee became able to do a job to which he is entitled in line with his seniority, whichever is the later.

The impartial umpire shall have only the functions set forth herein and shall serve for 1 year from date of appointment provided he continues to be acceptable to both parties. The fees and expenses of the umpire will be paid one-half by the corporation and one-half by the union and all other expenses shall be borne by the party incurring them. The office of the umpire shall be located in Detroit.

All cases shall be presented to the umpire in the form of a written brief prepared by each party, setting forth the facts and its position and the arguments in support thereof. The umpire may make such investigation as he may deem proper and may at his option hold a public hearing and examine the witnesses of each party and each party shall have the right to cross-examine all such witnesses and to make a record of all such proceedings.

Powers of the Umpire

It shall be the function of the umpire, after due investigation and within 30 days after submission of the case to him, to make a decision in all claims of discrimination for union activity or membership and in all cases of alleged violation of the terms of the following sections of this agreement, and written local or national supplementary agreements on these

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same subjects: recognition; representation; grievance procedure; seniority; disciplinary layoffs and discharges; call-in pay; working hours; leaves of absence; union bulletin boards; establishment of new plants; strikes, stoppages and lockouts; wages, except paragraph (97); general provisions; apprentices; skilled trades; vacation pay allowances; holiday pay; paragraphs (79) through (79f), relative to procedures on production standards; paragraph (79h); and of any alleged violations of written local or national wage agreements. The umpire shall have no power to add to or subtract from or modify any of the terms of this agreement or any agreements made supplementary hereto; nor to establish or change any wage; nor to rule on any dispute arising under paragraphs (78), (78a), (78b), (79g) or (79i) regarding production standards. The umpire shall have no power to rule on any issue or dispute arising under the waiver section or the Pension Plan, Insurance Program and Supplemental Unemployment Benefit Plan Section, except with respect only to the question of whether a discharged employee should receive a supplemental allowance pursuant to section 7 of article II of the Pension Plan (exhibit A-1). Any case appealed to the umpire on which he has no power to rule shall be referred back to the parties without decision.

The corporation delegates to the umpire full discretion in cases of discipline for violation of shop rules, or discipline for violation of the strikes, stoppages and lockouts section of the agreement.

Any claims including claims for back wages by an employee covered by this agreement, or by the union, against the corporation shall not be valid for a period prior to the date the grievance was first filed in writing, except that:

(1) In cases based on a violation which is noncontinuing, such claims shall be valid for a period of not more than 7 days prior to the date the grievance was first filed in writing unless the circumstances of the case made it impossible for the employee, or for the union, as the case may be, to know that he, or the union, had grounds for such a claim prior to that date, in which case the claim shall be limited retroactively to a period of 30 days prior to the date the claim was first filed in writing;

(2) In cases based on a violation which is continuing, if the circumstances of the case made it impossible for the employee, or for the union, as the case may be, to know that he, or the union, had grounds for such a claim prior to that date, the claim shall be limited retroactively to a period 30 days prior to the date the claim was first filed in writing.

Deductions from an employee's wages to recover over-payments made in error will not be made unless the employee is notified prior to the end of the month following the month in which the check (or payroll order) in question was delivered to the employee.

In claims arising out of the failure of the corporation to give the employee work to which he was entitled, the corporation, before his next permanent reduction in force layoff and within 3 months from the answer given by management at the third step, shall give him extra work for a number of hours equal to the number of hours that he had lost prior to the written filing of his claim, and this work shall be paid for at the hourly rate he would have received had he worked, or if paid for at a less rate, the corporation will make up the difference in cash. By extra work is meant work to which no other employee is entitled. Failing to give the employee work within 3 months, the corporation will pay the back wages.

All claims for back wages shall be limited to the amount of wages the employee would otherwise have earned from his employment with the corporation during the periods as above defined, less the following:

1. Any unemployment compensation which the employee is not obligated to repay or which he is obligated to repay but has not repaid nor authorized the corporation to repay on his behalf.

2. Compensation for personal services other than the amount of compensation he was receiving from any other employment which he had at the time he last worked for the corporation and which he would have continued to receive had he continued to work for the corporation during the period covered by the claim.

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Wages for total hours worked each week in other employment in excess of the total number of hours the employee would have worked for the corporation during each corresponding week of the period covered by the claim, shall not be deducted.

No decision of the umpire or of the management in one case shall create a basis for a retroactive adjustment in any other case prior to the date of written filing of each such specific claim.

After a case on which the umpire is empowered to rule hereunder has been referred to him, it may not be withdrawn by either party except by mutual consent.

There shall be no appeal from the umpire's decision, which will be final and binding on the union and its members, the employee or employees involved and the corporation. The union will discourage any attempt of its members, and will not encourage or cooperate with any of its members, in any appeal to any court or labor board from a decision of the umpire.

With respect to the processing, disposition and/or settlement of any grievance initiated under the grievance procedure section of this agreement, and with respect to any court action claiming or alleging a violation of this agreement or any local or other agreement amendatory or supplemental hereto, the union shall be the sole and exclusive representative of the employee or employees covered by this agreement. The disposition or settlement, by and between the corporation and the union, of any grievance or other matter, shall constitute a full and complete settlement thereof and shall be final and binding upon the union and its members, the employee or employees involved and the corporation.

Neither the corporation, nor the union nor any employee or group of employees may initiate or cause to be initiated or press any court action claiming or alleging a violation of this agreement or any local or other agreement amendatory or supplemental hereto, where such claim is also the subject matter of a grievance which is then open at any step of this grievance procedure.

No employee or former employee shall have any right under this agreement in any claim, proceeding, action or otherwise on the basis, or by reason, of any claim that the union or any union officer or representative has acted or failed to act relative to presentation, prosecution or settlement of any grievance or other matter as to which the union or any union officer or representative has authority or discretion to act or not to act under the terms of this agreement.

Any grievances which the corporation may have against the union in any plant, shall be presented by the plant management involved to the shop committee of that plant. In the event that the matter is not satisfactorily adjusted within 2 weeks after such presentation, it may be appealed to the third step of the grievance procedure upon written notice to the local union and the regional director of the union. Thereafter the matter will be considered at the third step of the procedure as provided in paragraph (39). If the matter is not satisfactorily settled at this meeting or within 5 days thereafter by agreement, the case may be appealed to the umpire by the corporation upon written notice to the international union at Detroit and to the umpire.

Any issue involving the interpretation and/or the application of any term of this agreement may be initiated by either party directly with the other party. Upon failure of the parties to agree with respect to the correct interpretation or application of the agreement to the issue, it may then be appealed directly to the umpire as provided in paragraph (43).

Any dispute arising as to the employee's membership in the union shall be reviewed by a representative of local management and the chairman of the local shop committee and/or the financial secretary, and if not resolved, may be decided by the impartial umpire.

Any dispute which may arise as to whether or not an employee properly executed or properly revoked an authorization for check-off of dues form, shall be reviewed with the employee by a representative of the local union and a representative of local management. Should this review not dispose of the matter, the dispute may be referred to the umpire whose decision shall be final and binding on the employee, the union and the corporation. Until the matter is disposed of no further deduction shall be made.

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Strikes, Stoppages, and Lockouts

It is the intent of the parties to this agreement that the procedures herein shall serve as a means for peaceable settlement of all disputes that may arise between them.

During the life of this agreement, the corporation will not lock out any employees until all of the bargaining procedure as outlined in this agreement has been exhausted and in no case on which the umpire shall have ruled, and in no other case on which the umpire is not empowered to rule until after negotiations have continued for at least 5 days at the third step of the grievance procedure. In case a lockout shall occur the union has the option of cancelling the agreement at any time between the 10th day after the lockout occurs and the date of its settlement.

During the life of this agreement, the union will not cause or permit its members to cause, nor will any member of the union take part in any sit-down, stay-in, or slowdown, in any plant of the corporation, or any curtailment of work or restriction of production or interference with production of the corporation. The union will not cause or permit its members to cause nor will any member of the union take part in any strike or stoppage of any of the corporation's operations or picket any of the corporation's plants or premises until all the bargaining procedure as outlined in this agreement has been exhausted, and in no case on which the umpire shall have ruled, and in no other case on which the umpire is not empowered to rule until after negotiations have continued for at least 5 days at the third step of the grievance procedure and not even then unless authorized by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL—CIO, and written notice of such intention to authorize has been delivered to the personnel staff of the corporation at least 5 working days prior to such authorization. The union will not cause or permit its members to cause nor will any member of the union take part in any strike or stoppage of any of the corporation's operations or picket any of the corporation's plants or premises because of any dispute or issue arising out of or based upon the provisions of the pension plan, insurance program or supplemental unemployment benefit plan; nor will the union authorize such a strike, stoppage, or picketing. In case a strike or stoppage of production shall occur, the corporation has the option of cancelling the agreement at any time between the 10th day after the strike occurs and the day of its settlement. The corporation reserves the right to discipline any employee taking part in any violation of this section of this agreement.

The union has requested this national agreement in place of independent agreements for each bargaining unit covered hereby. Accordingly an authorized strike in one bargaining unit under this agreement which results in an interruption of the flow of material or services to operations in any other bargaining unit under this agreement will be considered an authorized strike in any such affected bargaining unit.

Pension Plan, Insurance Program and Supplemental Unemployment Benefit Plan

. . . No matter respecting the provisions of the pension plan or the insurance program or the supplemental unemployment benefit plan shall be subject to the grievance procedure established in this agreement, except as expressly provided in paragraph (46) of this agreement.

Supplemental Unemployment Benefit Plan

Section 3. Appeals

(a) Applicability of Appeals Procedure

(1) The appeals procedure set forth in this section may be employed only for the purposes specified in this section.

(2) No question involving the interpretation or application of the plan shall be subject to the grievance procedure provided for in the collective bargaining agreement.

(b) Procedure for Appeals

(1) First Stage Appeals

(i) An employee may appeal from the company's written determination (other than determinations made in connection with section 1(b)(11) of article 1) with respect to the payment or denial of a benefit or a separation payment . . .

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(iii) The local committee shall advise the employee, in writing, of its resolution of, or failure to resolve his appeal. If the appeal is not resolved within 10 days after the date thereof (or such extended time as may be agreed upon by the local committee), the employee, or any two members of the local committee, at the request of the employee may refer the matter to the board for disposition.

(2) Appeals to the Board

(i) An appeal to the board shall be considered filed with the board when filed with the designated company representative for the plant at which the first stage appeal was considered by the local committee.

(ii) Appeals shall be in writing, shall specify the respects in which the plan is claimed to have been violated, and shall set forth the facts relied upon as justifying a reversal or modification of the determination appealed from.

(iii) Appeals by the local committee to the board with respect to benefits or separation payments shall be made within 20 days following the date the appeal is first considered at a meeting of the local committee, plus such extension of time as the local committee shall have agreed upon. Appeals by the employee to the board with respect to benefits or separation payments shall be made within 30 days following the date the notice of the local committee's decision is given or mailed to the employee. If the appeal is mailed, the date of filing shall be the postmark date of the appeal.

(iv) The handling and disposition of each appeal to the board shall be in accordance with regulations and procedures established by the board.

(v) The employee, the local committee or the union members of the board may withdraw any appeal to the board at any time before it is decided by the board, on a form provided for that purpose.

(vi) There shall be no appeal from the board's decision. It shall be final and binding upon the union, its members, the employee, the trustee, and the company. The union will discourage any attempt of its members to appeal and will not encourage or cooperate with any of its members in any appeal, to any court or labor board from a decision of the board, nor will the union or its members by any other means attempt to bring about the settlement of any claim or issue on which the board is empowered to rule hereunder.

(vii) The local committee shall be advised, in writing, by the board of the disposition of any appeal previously considered by the local committee, and referred to the board. A copy of such disposition shall be forwarded to the employee by the local committee.

Section 2. Board of Administration of the Plan

(a) Composition and Procedure

(1) There shall be established a board of administration of the plan consisting of six members, three of whom shall be appointed by the company (hereinafter referred to as the company members) and three of whom shall be appointed by the union (hereinafter referred to as the union members). Each member of the board shall have an alternate. In the event a member is absent from a meeting of the board, his alternate may attend, and, when in attendance, shall exercise the powers and perform the duties of such member. Either the company or the union at any time may remove a member appointed by it and may appoint a member to fill any vacancy among the members appointed by it. The company and the union each shall notify the other in writing of the members respectively appointed by it before any such appointment shall be effective.

(2) The members of the board shall appoint an impartial chairman, who shall serve until requested in writing to resign by three members of the board. If the members of the board are unable to agree upon a chairman, the umpire under the collective bargaining agreement shall make the appointment; provided, however, that the company and union members may, by agreement, request such umpire to serve as the impartial chairman of the board. The impartial chairman shall be considered a member of the board and shall vote only in matters within the board's authority to determine which the other members of the board shall have been unable to dispose of by majority vote, except that the impartial chairman shall have no vote concerning determinations made in connection with section 1(b)(11) of article I (contrary to intent of plan).

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(3) At least two union members and two company members shall be required to be present at any meeting of the board in order to constitute a quorum for the transaction of business. At all meetings of the board the company members shall have a total of three votes and the union members shall have a total of three votes, the vote of any absent member being divided equally between the members present appointed by the same party. Decisions of the board shall be by a majority of the votes cast.

(4) Neither the board nor any local committee shall maintain any separate office or staff, but the company and the union shall be responsible for furnishing such clerical and other assistance as its respective members of the board and any local committee shall require. Copies of all appeals, reports and other documents to be filed with the board pursuant to the plan shall be filed in duplicate, with one copy to be sent to the company members at the address designated by them and the other to be sent to the union members at the address designated by them.

(b) Powers and Authority of the Board

(1) It shall be the function of the board to exercise ultimate responsibility for determining whether an employee is eligible for a benefit or separation payment under the terms of the plan, and, if so, the amount of the benefit or separation payment.

The board shall be presumed conclusively to have approved any initial determination by the company unless the determination is appealed as set forth in section 3(b) of article V.

(2) The board shall be empowered and authorized and shall have jurisdiction to:

(i) hear and determine appeals by employees;

(ii) obtain such information as the board shall deem necessary in order to determine such appeals;

(iii) prescribe the form and content of appeals to the board and such detailed procedures as may be necessary with respect to the filing of such appeals;

(iv) direct the company to notify the trustee to pay benefits or separation payments pursuant to determinations made by the local committee or the board;

(v) prepare and distribute, on behalf of the board, information explaining the plan; and

(vi) perform such other duties as are expressly conferred upon it by the plan.

(3) In ruling upon appeals, the board shall have no authority to waive, vary, qualify, or alter in any manner the eligibility requirements set forth in the plan, the procedure for applying for benefits or separation payments as provided for therein, or any other provision of the plan; and shall have no jurisdiction other than to determine, on the basis of the facts presented and in accordance with the provisions of the plan:

(i) whether the first stage appeal and the appeal to the board were made within the time and in the manner specified in section 3(b) of article V,

(ii) whether the employee is eligible for the benefit or separation payment claimed and, if so,

(iii) the amount of any benefit or separation payment payable; and

(iv) whether a protest of an employee's state system benefit by the company is frivolous.

(4) The board shall have no jurisdiction to act upon any appeal filed after the applicable time limit or upon any appeal that does not comply with the board-established procedures.

(5) The board shall have no power to determine questions arising under the collective bargaining agreement, even though relevant to the issues before the board. All such questions shall be determined through the regular procedures provided therefore by the collective bargaining agreement, and all determinations made pursuant to the agreement shall be accepted by the board.

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(6) Nothing in this article shall be deemed to give the board the power to prescribe in any manner internal procedures or operations of either the company or the union.

(7) The board shall provide for a local committee at each plant of the company to handle appeals from determinations as provided in section 3(b)(1) of article V, except determinations made in connection with section 1(b)(11) of article I (contrary to intent of plan).

(i) The local committee shall be composed of two members designated by the company members of the board and two members designated by the union members of the board. . . .

(ii) Any individual appointed by the union as a member of a local committee shall be an employee having seniority at the plant where, and at the time when, he is to serve as a member of the local committee.

(iii) In addition to their regularly appointed local committee members the union members of the board may name one additional employee, who qualifies under (ii) above, as an alternate local committee member to serve during temporary specified periods when one of their local committee members is absent from the plant during scheduled working hours and unable to serve on the committee. The company members of the board may also name one alternate . . .

Section 9. Cost of Administering the Plan . . .

Expense of the Board

The compensation of the impartial chairman, which shall be in such amount and on such basis as may be determined by the other members of the board, shall be shared equally by the company and the union. Reasonable and necessary expenses of the board for forms and stationery required in connection with the handling of appeals shall be borne by the company. The company members and the union members of the board and of local committees shall serve without compensation from the fund. . . .

Pension Plan

Section 3. Administration

(a) Board of Administration

There shall be established a central board of administration hereinafter referred to as the board, composed of six members, three appointed by the corporation and three by the union. Each member of the board shall have an alternate. In the event a member is absent from a meeting of the board, his alternate may attend and when in attendance shall exercise the duties of the member.

Either the corporation or the union at any time may remove a member or alternate appointed by it and may appoint a member or alternate to fill any vacancy among members or alternates appointed by it.

The board of administration shall have no power to add to or subtract from or modify any of the terms of this agreement or the plan, nor to change or add to any benefit provided by said agreement or plan, nor to waive or fail to apply any requirement of eligibility for a benefit under said agreement or plan.

Any case referred to the board of administration on which it has no power to rule shall be referred back to the parties without ruling.

No ruling or decision of the board of administration in one case shall create a basis for a retroactive adjustment in any other case prior to the date of written filing of each such specific claim.

There shall be no appeal from any ruling by the board which is within its authority. Each such ruling shall be final and binding on the union and its members, the employee or employees involved, and on the corporation.

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The union will discourage any attempt of its members and will not encourage or cooperate with any of its members, in any appeal to any court or administrative board or agency from a ruling of the board of administration.

(b) Impartial Chairman

(1) The corporation and the union shall mutually agree upon and select an impartial chairman, who shall serve until requested in writing to resign by three board members.

(2) The impartial chairman will not be counted for the purpose of a quorum, and will vote only in case of a failure of the corporation and union by vote through their representatives on the board to agree upon a matter which is properly before the board and within the board's authority to determine; provided that the impartial chairman may vote only on matters involving the processing of individual cases, not on the development of procedures.

(3) The fees and expenses of the impartial chairman will be paid one-half by the corporation and one-half by the union.

(c) As soon as possible after the effective date of this agreement, the union and corporation members of the board of administration shall work out matters such as but not limited to: (1) procedures for establishing local pension committees at the divisions or plants involved; (2) the authority and duties of such local pension committees; (3) the procedures for reviewing applications for pensions; (4) the handling of complaints regarding the determination of age, service credits, and computation of benefits; (5) procedures for making appeals to the board; (6) means of verifying service credits to which employees are entitled under the plan; (7) methods of furnishing information to employees regarding past and future service credits; (8) the amount of time the union members of the local committees may be permitted to leave their work to attend meetings of the local pension committees; (9) how disputes over total and permanent disability claims will be handled, including disputes, if any, with respect to whether a disabled pensioner engages in gainful employment; (10) the review of pertinent information about the plan for dissemination to employees; (11) how pension payments will be authorized by the board. All such matters shall be consistent with all other provisions of the plan and this agreement. The working out of the procedures outlined in this section shall be the responsibility of the corporation and union members of the board, and the impartial chairman shall have no power to decide any question with respect thereto. . . .

No matter respecting the plan as modified and supplemented by this agreement or any difference arising thereunder shall be subject to the grievance procedure established in the collective bargaining agreement between the corporation and the union, except as expressly provided in paragraph (46) of such collective bargaining agreement.

Insurance Program

(c) Administration

(1) The corporation shall be responsible for the administration of the program.

(2) All administrative expenses incurred by the corporation to execute the program set forth in articles II and III shall be borne by the corporation.

(d) Grievance Procedure not Applicable

It is understood that the grievance procedure of any collective bargaining agreement between the parties hereto shall not apply to this program or any insurance contract in connection therewith.

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From the agreement between
PAPER BOX MANUFACTURERS and the
INTERNATIONAL BROTHERHOOD OF PULP,
SULPHITE AND PAPER MILL WORKERS
(expiration date August 1967)

Grievance Procedure

Section 1. . . . Should differences arise in the plant between the company and the union or its members employed by the company, or should any local trouble of any kind arise in the plant, such grievances shall be reported by the union shop steward . . . If the above group is unable to come to a satisfactory conclusion within 48 hours, the management of the company and the international union shall each select a representative. These two shall choose a third. If, however, within 5 days the third party cannot be chosen, the third arbitrator shall be selected under the rules of the American Arbitration Association, and these three shall constitute an arbitration board, and their findings shall be final and binding. Cost of the third arbitrator shall be borne jointly by the company and the union.

The arbitrators appointed or chosen hereunder to whom any grievance or dispute shall be submitted shall have jurisdiction and authority only to determine the meaning and application of or compliance with the provisions of this agreement, and shall not have jurisdiction or authority to change or add to the provisions of this agreement.

Section 2. Any dispute or grievance may be taken up by the Mutual Interest and Adjustment Board, for settlement, provided both parties agree, before it is taken to arbitration.

Section 3. Should the company discharge an employee without just cause and it should subsequently be determined as provided above that the employee should be reinstated, such employee shall be reinstated and shall receive full pay for all time lost.

Strikes, Etc.

1. The union and the company agree that there shall be no strikes, boycotts, lockouts, or general slowing down of production by employees during the life of this agreement, and that in the event differences should arise between the company and the union or its members employed by the company as to the meaning and application of this agreement, or should any trouble of any kind arise in the plant, there shall be no suspension of work by the employees on account of such differences.

From the agreement between
AFFILIATED DRESS MANUFACTURERS, INC., and the
INTERNATIONAL LADIES' GARMENT WORKERS' UNION
(expiration date January 1967)

Strikes—Stoppages—Lockouts

During the term of this agreement, there shall be no general lockout, general strike, individual shop lockout or individual shop strike or shop stoppage for any reason or cause, but work shall proceed in operation subject to the determination of any dispute or grievance as hereinafter provided, except in cases where garments are not settled in the manner provided for in this agreement, or wages are not paid on their due date as provided for herein, or where a joint decision of the managers of joint council and the association, or their deputies, or a decision of the impartial chairman has not been complied with within 24 hours after it has been rendered, or where a member of the association is deemed to be in noncompliance under the express terms of any other provision of this agreement. There shall be no individual lockout, strike or stoppage pending the determination of any complaint or

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grievance, except in the cases aforementioned. Should the employees of any shop or factory cause a stoppage of work or shop strike or should there result in any shop or factory a stoppage of work or shop strike, for reasons other than those aforementioned, notice thereof shall be given by the association to joint council. The latter obligates itself to return the striking workers and those who have stopped work to their work in the shop within 24 hours after the receipt by joint council of such notice, except in the cases aforementioned, and until the expiration of such time it shall not be deemed that the striking workers have abandoned their employment. In the event of a substantial violation of this clause on the part of joint council, the association shall have the option to terminate this agreement. The existence or nonexistence of such substantial violation shall be determined by the impartial chairman on all the facts and circumstances.

Notwithstanding the foregoing, the association recognizes the right of workers covered by this agreement to stop work for any member of the association and his contractors during the continuance of any strike or stoppage (not in violation of contract) declared by the international or any affiliate thereof at any plant of any firm manufacturing the same types of garments as are covered by this agreement which is directly or indirectly affiliated with the member of the association. The impartial chairman shall have the right to determine whether any such firm is affiliated with the member of the association. In determining whether such affiliation exists, the impartial chairman shall be guided by the proof of the facts tending to establish any mutuality or reciprocity of interests including whether such member of the association has a substantial financial interest in such other firm.

Should any member of the association cause a lockout in his or its shop or factory, notice thereof shall be given by joint council to the association. The association obligates itself, within 24 hours after the receipt of such notice, to terminate the lockout and to cause its member to reemploy the workers, and until the expiration of such time, it shall not be deemed that the employer has forfeited his rights under this agreement. In the event of a substantial violation of this clause on the part of the association, the union shall have the option to terminate this agreement. The existence or nonexistence of such substantial violation shall be determined by the impartial chairman on all the facts and circumstances.

Notice of Stoppage or Strikes

Joint council shall give 3 days' notice to the association before calling a strike or stoppage in the shops of contractors to whom a member of the association sends work, except where garments are not settled in the manner provided for in this agreement, or where wages are not paid on the regular payday specified in this agreement, or where a decision of the impartial chairman has not been complied with within 24 hours after it has been rendered, or where a member of the association is deemed to be in noncompliance under the express terms of any other provision of this agreement. In case a strike or stoppage shall occur without such notice in such contractors' shops, joint council agrees, except in the cases aforementioned, to restore the workers within 24 hours after demand of the association or within 24 hours after compliance.

Adjustment of Complaints

All complaints, disputes or grievances arising between the parties hereto relating to or in connection with or involving questions of interpretation or application of any clause of this agreement, or any acts, conduct or relations between the parties or their respective members, directly or indirectly, shall be submitted in writing by the party hereto claiming to be aggrieved to the other party hereto, and the manager of the association and the manager of joint council, or their deputies, shall, in the first instance, jointly investigate such complaints, grievances or disputes and attempt an adjustment. Decisions reached by the managers or their deputies shall be binding on the parties hereto. Should they fail to agree, the question or dispute shall be referred to a permanent umpire to be known as the "impartial chairman" in the industry and his decision shall be final and binding upon the parties thereto. In the event of a default by either party or any member thereof, in appearing before the impartial chairman, after due written notice of hearing of not less than 5 days by ordinary mail or by manual delivery shall have been given to said party, through the association or joint council (except in the case of a complaint of strike, stoppage or lockout, in which event a shorter period of notice, in the discretion of the impartial chairman may be given), the impartial chairman is hereby authorized to render a decision upon the testimony of the party appearing.

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Where during the term of this agreement any firm resigns its membership from the association, any complaint, dispute or grievance which joint council may have against such firm, shall, in the first instance, be filed with the impartial chairman and he shall give at least 5 days' notice by certified mail to the firm at its last known address, or to an owner or officer of such firm at his last known residence, of the date and place of hearing thereon, and he shall enclose with such notice a copy of the complaint, dispute or grievance which joint council has filed with him against the firm.

Any claim, complaint, dispute or grievance which any member of the association, on the one hand, and joint council or any of the workers who are engaged in any of the crafts covered by this agreement, on the other hand, may have against the other shall be instituted as above provided by joint council or the association, as the case may be, and no right to institute an action shall exist in favor of any individual member of the association or individual worker in the bargaining unit.

If any question or issue should arise concerning the validity of any clause of this agreement or the arbitrability (substantive or procedural) of any complaint, dispute or grievance thereunder, the impartial chairman shall have exclusive jurisdiction to determine such question, issue, or matter and his decision shall be final and binding.

The parties hereto designate Harry Uviller, Esq., as impartial chairman to act during the term of this agreement and agree that when he is unable to attend or to act for temporary periods, he may designate a member of his staff to act in his place or, with the consent of the parties, he may designate another person to act in his stead during such temporary periods.

Should the impartial chairman resign, refuse to act or be incapable of acting, or should the office become vacant for any reason, the parties shall immediately and within 5 days after the occurrence of such vacancy, designate another person to act as such impartial chairman. If they fail to agree, the mayor of the City of New York shall, on application of either party, summarily make such appointment.

Each member of the association and the locals affiliated with joint council and the members thereof engaged in any of the crafts covered by this agreement hereby assent to the appointment of the impartial chairman designated herein and of his successor, if any, selected in the manner above provided.

Each case shall be considered on its merits and the collective agreement shall constitute the basis upon which decisions shall be rendered. No decision shall be used as a precedent for any subsequent case.

All decisions reached by the managers of the parties hereto, or their deputies, or rendered by the impartial chairman, shall be complied with within 24 hours. Should any member of the association fail to comply with such decision within such time or should a member be deemed in noncompliance under the express terms of any other provision of this agreement, he shall automatically lose all rights and privileges under this agreement, and the union shall be free to take action to enforce the rights of the workers and the union against such member and to obtain an award under any provision of this collective agreement.

In amplification of any and all rights which the manager of the association and the manager of joint council, or their deputies, or the impartial chairman may have pursuant to this agreement or by operation of law, it is agreed that in the event of any breach of the collective agreements or any of the terms thereof by the members of the parties hereto, the manager of the association and the manager of joint council, or their deputies, or the impartial chairman, may as part of their decision, issue any and all mandatory directions, prohibitions or orders directed to or against any party breaching the collective agreements or any part thereof.

Subpoenas issued by the impartial chairman for the production before him of books, records and documents of a member of the association shall be deemed to have been issued in a "proper case."

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The decision reached by the managers or their deputies, or rendered by the impartial chairman, shall have the effect of a judgment entered upon an award made, as provided by the Arbitration Laws of the State of New York, entitling the entry of judgment in a court of competent jurisdiction against the defaulting party who fails to carry out or abide by the decision. It is hereby expressly agreed between the parties hereto that the oath of arbitrator required by section 7506(a) of the Civil Practice Law and Rules and the Arbitration Laws of the State of New York, is hereby expressly waived.

The parties further agree that service of all papers used in any application to the court in any proceedings to confirm the award of the impartial chairman may be made by certified mail, at the last known address of residence of the owner or officer of or place of business of the respondent in such proceeding, within or without the State of New York, as the case may be, including service of the papers conferring jurisdiction of the parties upon the court, and the parties expressly agree that jurisdiction to confirm such award is hereby vested in the Supreme Court of the State of New York.

It is the intention and agreement of the parties that the procedure established in this agreement for the adjustment of disputes shall be the exclusive means for the determination of all disputes, complaints or grievances specified herein, expressly including all strikes, stoppages, lockouts and any and all claims, demands or acts arising therefrom. Neither party shall institute any proceedings in a court of law or equity other than to enforce the decision and award of the impartial chairman, or to compel the production of books and records of a member of the association for examination by the impartial chairman or his accountants. This provision shall be a complete and bona fide defense to any action or proceeding instituted contrary to the terms hereof.

The procedure hereinabove outlined for the adjustment of disputes between the union and the association shall also apply to all disputes between the union and the other associations under collective agreements with it, if and when such associations enter into collective agreements with the union, and between the associations among themselves, and the impartial chairman shall serve in that capacity with respect to the determination of all such disputes. All disputes shall be heard on notice to all parties interested therein.

Financing Impartial Machinery

The parties hereto have determined that the sum of $200,000 per year is necessary to maintain the office of the impartial chairman and administrator, and to make it possible for them and each of them to lease necessary space, to acquire necessary equipment and supplies and to employ the necessary number of persons required for the speedy and efficient administration of their duties under the terms of this agreement. It is hereby agreed that the union shall pay towards that amount the sum of $30,000 per year and that the United Better Dress Manufacturers' Association, Inc., shall pay towards that amount the sum of $19,000 per year, and that the popular price dress contractor association in collective agreement with the union shall pay towards that amount the sum of $16,500 per year, and the Affiliated Dress Manufacturers, Inc., the National Dress Manufacturers' Association, Inc., and the Popular Price Dress Manufacturers' Group, Inc., shall collectively pay the sum of $84,000 per year. . . .

The amounts required to be paid by the Affiliated Dress Manufacturers, Inc., the National Dress Manufacturers' Association, Inc., and the Popular Priced Dress Manufacturers' Group, Inc., shall continue to be raised from the members of each of the said associations through payments for "settlement stamps" for each new style "settled" or manufactured by them. The price to be paid for such stamps shall be determined twice a year, at the beginning of the spring and fall seasons, by the impartial chairman after consulting with the parties, and his decision shall be based on the deficit, if any, in the amount paid during the past 6 months' operation, and the estimated number of styles to be "settled" or manufactured during the ensuing 6 months. . . .

Each member of the association agrees to maintain his shop or factory at the level of efficiency which meets the requirements of the above provisions and further agrees to be bound by the rules and regulations heretofore or hereafter adopted by the parties hereto or promulgated by the impartial chairman to secure compliance with the above provisions and agrees to be bound by the remedies therein contained for noncompliance.

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Each of the parties hereto shall have the right, at the end of each 6 months during the term of this agreement, to suggest to the other, changes in or amendments of the rules and regulations theretofore promulgated. In such event, the parties shall meet in conference to consider the suggestions, and upon their failure to agree the matter shall be referred to the impartial chairman of the dress industry who shall, after hearing, decide the same and whose decision shall be final and binding upon the parties hereto.

The parties hereto agree that the administrative board under the direction of the impartial chairman shall establish a special department to be attached to his office, composed of a sufficient number of competent persons who are qualified by experience and training in problems relating to management and production. They shall counsel and advise and render such other assistance to individual members of the association which will aid and facilitate their efforts to effectuate the standards above set forth. Funds for the implementation of the special department shall be raised only with the mutual consent of the parties hereto.

. . . The administrative board shall have full power and authority to achieve the purposes set forth in the last preceding paragraph /regulations of contractors and working conditions/, to formulate all necessary rules, regulations and methods of procedure in connection therewith, not inconsistent with the covenants and principles set forth in subdivision "B" hereof, and shall have full power and authority to administer the provisions of this paragraph 14. The administrative board shall also have jurisdiction over grievances, disputes or controversies affecting piece rate settlements and to decide, on an over-all industry basis, upon differentials for geographic areas, and shall have such additional powers as are conferred upon it in this agreement or may hereafter be conferred upon it by joint council and the associations with which it has made collective agreements. . . .

Any decision of the administrative board, to be effective, shall be unanimous. Such decision shall be final and binding upon the parties hereto and their members. If the administrative board is unable to agree on any matter which may properly come before it, the impartial chairman provided for hereafter shall decide the same and his decision shall be final and binding and become the decision of the administrative board and be binding upon the parties hereto and their members.

Unsettled Garments

Garments shall be settled before they are put in work. . . . Upon request of either party to this agreement, the administrative board and/or the impartial chairman shall settle the piece rates on any garments in dispute within 48 hours.

Schedules

All general schedules of piece rates which the administrative board or the impartial chairman has heretofore adopted as a guide for the settlement of piece rates in the industry shall continue in full force and effect, except as otherwise herein provided.

The parties hereto have agreed upon an official schedule for operating to be used as the basic guide for settling piece rates for each price line and/or for groups of price lines. Said schedule shall replace previously existing schedules.

The parties hereto agree to confer as soon as possible after the signing of this agreement for the purpose of initiating a study to establish grades in the industry and schedules for each such grade, which shall be used as the basic guide for the settlement of piece rates for garments. Any disagreement between the parties shall be referred to the impartial chairman for mediation but not for arbitration.

. . . Where it shall have been established that there has been an underpayment made by a member of the association to his contractor as a result of which the workers have been underpaid or an underpayment by the contractor to the workers, the amount of such underpayment shall be paid by such member of the association to the workers so underpaid. If such underpayment shall have been deliberate or the result of any collusive arrangements, the member of the association and/or the contractor shall, in addition to the foregoing, be subject to such other damages as may be agreed upon between joint council and the association or upon their failure to agree as may be determined by the impartial chairman.

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Change in System of Production

The association shall have the right to apply to joint council on behalf of any member of the association for a change in the system of production to section piecework in the inside shop of the member of the association and/or in the shops of his contractors. Upon joint council's consent thereto, arrangements may be made for the introduction of such system upon terms and conditions that may be mutually agreed upon in writing. However, with respect to garments manufactured in the price ranges of $8.75 and below, a member of the association may change the system of production to section piecework provided the workers involved shall consent thereto. Immediately after the effective date of this agreement, the parties hereto shall meet for the purpose of working out rules, regulations and procedures for the proper operation of the section piecework system in the aforementioned price ranges. Upon their failure to agree, the matter shall be submitted to the impartial chairman hereinafter named for his determination and his decision shall be binding upon the parties. In like manner, either of the parties hereto may seek amendment, modification or addition to any rules, regulations and procedures which may have theretofore been agreed upon or determined. Any controversy which may arise with respect to the operation of the section piecework system in any shop manufacturing garments in the price ranges of $8.75 and below shall be deemed a dispute over which the impartial chairman shall, at all times, have jurisdiction.

Cutting Departments

A member of the association shall not send goods to be cut to any individual, firm or corporation which is engaged exclusively in the business of cutting garments; nor shall any member of the association, who does not operate an inside shop but maintains a cutting department, move it from its present location to any place beyond which the public carrier fare is more than 15 cents; nor shall any member of the association discontinue his cutting department unless by agreement with joint council or decision of the impartial chairman.

Discharge of Workers

The employer may discharge his workers for the following causes:

Incompetency,
Misconduct,
Insubordination in the performance of his work,
Breach of reasonable rules to be jointly established,
Soldiering on the job.

In the event of reinstatement of a discharged worker, the impartial chairman may award him compensation for loss of time.

Health and Welfare Fund—Rules and Regulations

The health and welfare fund shall be administered by a health and welfare council consisting of . . . The council shall be presided over by the impartial chairman designated hereinafter who shall have the power to break any deadlock which may arise between the representatives of the joint board and the representatives of the aforenamed associations who are members of the health and welfare council. . . .

Retirement Fund—Rules and Regulations

The retirement fund shall be administered by a retirement council consisting of . . . The council shall be presided over by the impartial chairman designated hereinafter who shall have the power to break any deadlock which may arise between the representatives of the joint board and the representatives of the aforementioned associations who are members of the retirement council. . . .

Joint Board—Proper Party to Enforce Agreement

The parties agree that joint board is the proper agency to enforce and administer the provisions of this agreement on behalf of the union and/or joint council, and to file complaints, disputes or grievances arising between the parties hereto with the association and to adjust said complaints, disputes or grievances, and joint board shall on behalf of the union and/or joint council file and process, before the impartial chairman, any and all complaints, disputes or grievances.

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From the agreement between
THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY and the
COMMUNICATIONS WORKERS OF AMERICA
(expiration date November 1966)

Section 6.1 The company and the union recognize the right of any individual employee or group of employees to present grievances to management representatives of the company. Grievances shall receive fair, just, and speedy consideration and shall be handled without prejudice or discrimination.

Section 6.2 Grievances must be presented within 30 days following the occurrence of the action which is the basis of the controversy, to be eligible for handling under the arbitration provisions of article 29. . . .

Section 12.13 The company shall distribute the opportunity to work time which requires payment at premium rates as equitably as the needs of the service will permit. Representatives of the company and the union shall endeavor to determine the employee groups which are appropriate for this purpose. In the event of failure to reach agreement, final determination of the appropriate employee groups will be made by the general plant manager or his authorized representative. The provisions of this section shall not be subject to arbitration. . . .

Article 23

Seniority . . .

. . . Questions of seniority in promotion may be referred to the grievance procedure set forth in article 6, hereof, but neither the provisions of this subsection nor their application shall be subject to arbitration, . . .

Section 23.7 The company shall take seniority into consideration in selecting employees for training. Nothing in this provision shall limit the company's right to select employees for training who, in its judgment, are best qualified to receive such training. Neither the provisions of this section nor their application shall be subject to arbitration. . . .

Plan for Employees' Pensions, Disability Benefits and Death Benefits

Section 27.1 In the event, during the life of this contract, the company desires to make a change in the "Plan for Employees' Pensions, Disability Benefits and Death Benefits" which would affect the pensions, disability benefits and death benefits of employees within the bargaining unit, it will, before making a change, notify the union and afford the union a period of 60 calendar days for bargaining; provided, however, that no change may be made in the plan which would reduce or diminish the pensions, disability benefits and death benefits provided thereunder, as they may apply to employees within the bargaining unit, without consent of the union.

Section 27.2 Any claim that section 27.1 of this article has been violated may be presented as a grievance and, if not resolved by the parties under their grievance machinery, may be submitted to arbitration pursuant to the provisions of article 29, but in such case any decision or action of the company shall be controlling unless shown to have been discriminatory or in bad faith, and only the question of discrimination or bad faith shall be subject to the grievance procedure and arbitration. However, nothing in this contract shall be construed to subject the plan or its administration to arbitration. . . .

Article 29

Arbitration

Section 29.1 Except as otherwise provided in this contract, if a grievance has been presented within the time limits required by section 6.2 and section 6.3 and has been handled in accordance with the provisions of section 6.1 and has not been satisfactorily adjusted, the union within 30 days after the grievance has been referred for settlement to the general plant manager or his authorized representative may request that the grievance be arbitrated subject to the following conditions:

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(a) The provisions for arbitration shall apply only to controversies between the union and the company regarding the true intent and meaning of any provision of this contract, or regarding a claim that the company has not fulfilled a commitment made in this contract.

(b) The union shall notify the company in writing of its intention to arbitrate the dispute, setting forth in detail the issue or issues involved, the facts out of which they arose, and their contention.

(c) A meeting between the general plant manager or his authorized representative and the officer of the international union directing district 9 of the union or his authorized representative shall be called within 10 days of receipt of such written notice. Such a meeting shall be conducted within the territory covered by this bargaining unit.

(d) In the event a settlement is not reached within 15 days following receipt of notice of intention to arbitrate, an arbitration committee shall be established within 5 days thereafter consisting of one representative appointed by the union and one representative appointed by the company. The persons so appointed shall, within 10 days after their appointment, select an impartial person as the third arbitrator who shall act as chairman. If agreement is not reached within 10 days from the time both representatives were appointed, the union may request the Director of the Federal Mediation and Conciliation Service to name a panel of seven arbitrators and the parties in turn shall have the right to strike a name from the panel until only one name remains. The remaining person shall be a member of the arbitration committee and shall act as chairman of the arbitration committee. The right to be the first to strike a name from the panel shall be set by lot.

(e) Hearings before this arbitration committee shall be commenced within 5 days of the selection of the chairman if convenient to him; otherwise as soon as possible, and carried to a conclusion as expeditiously as possible. The committee shall hear and accept pertinent evidence submitted by both parties and shall render a decision in writing to both parties within 15 days of the completion of the hearing.

Section 29.2 The decision of a majority of the arbitration committee shall be final and binding on both parties and the company and the union agree to abide by such decision.

Section 29.3 The arbitration committee shall have no authority to change, add to, or subtract from the contract.

Section 29.4 The time periods referred to in this article exclude Sundays and holidays recognized in this contract and may be extended by mutual agreement.

Section 29.5 Each party shall pay for its own witnesses and the compensation and expenses of the arbitrator appointed by each party shall be borne by the respective organizations appointing them, while those of the arbitration committee chairman and the general expenses of arbitration shall be borne by the company and the union in equal parts.

From the agreement between
RESTAURANTS OF OREGON ASSOCIATION and the
HOTEL AND RESTAURANT EMPLOYEES AND
BARTENDERS INTERNATIONAL UNION
(expiration date May 1967)

Arbitration

All disputes arising under this agreement concerning the application or interpretation thereof, or disputes concerning the employee-employer relationship, shall be settled by negotiation between representatives of the parties hereto. In the event the parties are unable to agree within a period of not to exceed 10 days, such dispute shall be settled by arbitration

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in the manner hereinafter set forth; provided, however, that matters arising out of the expiration of this agreement or annual openings are not subject to arbitration unless, when such matters arise, the parties sign a joint submission agreement submitting themselves to arbitration and defining the particular issues to be arbitrated. Unless a different procedure is set forth in an applicable joint submission agreement, disputes to be arbitrated shall be arbitrated in the following manner: The local joint executive board shall appoint a representative and the employer or employers shall appoint a representative, and in the event said two representatives are unable to agree within a period of not to exceed 10 days; said two representatives shall agree upon a third impartial person, which persons shall constitute the arbitration board. If said persons are unable to agree within a period of not to exceed 10 days, the local joint executive board and the employer or the employers shall call upon the Federal Mediation and Conciliation Service to name a third impartial person, who, with the aforesaid two representatives, shall constitute the arbitration board. The decision of the majority of said board upon any question submitted to it shall be final and binding and shall be retroactive to the date notice is given of said grievance, dispute or matter concerning the employee-employer relationship. The effective date of matters arbitrated under a joint submission agreement shall be governed by the terms of the joint submission agreement. There shall be no strikes, lockouts or other stoppage of work pending such negotiation or arbitration.

Any grievances arising hereunder shall be reported in writing to the other party hereto, and such grievance shall be adjusted by negotiation or arbitration, in accordance with this agreement, forthwith; provided, however, that charges against an employee for violation of union working rules must be made in writing by the employer, and any fines collected must be collected by the union.

. . . Employees who stock or service vending machines from which food or beverages cooked, prepared or processed on the employer's premises are dispensed, are covered by this contract. Wage rates or classification issues that may arise during the life of this agreement under this section shall be settled by mutual agreement between the parties or submitted to the arbitration processes of the agreement for final determination.

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Appendix D. Selected Arbitration Provisions Negotiated by Small Companies

From the agreement between
AMERICAN METAL SPECIALTIES CORPORATION and the
INTERNATIONAL UNION OF ELECTRICAL, RADIO AND
MACHINE WORKERS
(expiration date January 1965)

Section 1

When any differences arise between the employer and the union or its members, the grievance shall be reduced to writing, and an earnest effort shall be made to settle such matters in the following manner: . . .

In the event such differences cannot be settled in the steps provided above, a board of arbitrators shall be set up composed of three members as follows:

One selected by the company.

One selected by the union.

A third member selected in accordance with the procedure of the American Arbitration Association.

The decision of the majority of the board shall be final and binding upon both parties. The expenses and salary incident to the service of the impartial arbitrator shall be equally borne by the company and the union.

Section 2

During the life of this contract there shall be no strikes, slowdowns, work stoppages, or lockouts.

From the agreement between
DECOREL CORPORATION and the
UPHOLSTERERS' INTERNATIONAL UNION OF NORTH AMERICA
(expiration date December 1964)

3. It is agreed that dispute over matters covered in this agreement shall be referred to the proper officers of the employer and the authorized representatives of the union. If the dispute cannot be satisfactorily adjusted by these representatives of the parties hereto, it shall immediately be referred to the arbitration board of three members.

4. Arbitration Machinery:

(a) The board of arbitration shall consist of one representative appointed by the employer, and one representative appointed by the union, and a third member, designated as the impartial chairman, who shall be selected by the representatives appointed by the parties to this agreement.

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(b) Within 5 days after the employer or the union shall notify the other of its desire to submit the matter in dispute to arbitration, the parties shall designate and notify the other party of their respective representatives of the board. Within the same period of 5 days the representatives' parties shall be required to agree upon the appointment of the impartial chairman. In the event that the representatives of the parties are unable to do so within said period, then the impartial chairman shall be selected in accordance with the rules then obtaining of the Federal Mediation and Conciliation Service.

(c) The board of arbitration shall conduct a hearing as expeditiously as is possible and shall render its decision immediately and without undue delay. A majority decision of the board of arbitration shall be final and binding on all parties.

(d) In conducting hearings, the board of arbitration shall have the authority to call for any evidence written or oral. The parties affected shall be afforded a full opportunity to present any evidence, written or oral, which may be pertinent to the matter in dispute.

Cases involving charges of unjust discharge or discrimination shall be given precedence by the board.

(e) The expenses of the impartial chairman shall be borne equally by both parties to this agreement.

(f) Failure to submit a matter in dispute to arbitration and failure to comply immediately with the decision of the board shall be deemed a violation of this agreement.

(g) If the decision favors the employee, it shall be retroactive to the date the original complaint was first submitted to the employer.

5. Guilt Determination—The guilt of participation of any employee in an unauthorized strike, work stoppage, or slowdown shall, at the request of the union, be subject to the grievance and arbitration provision of the within agreement. The employer further agrees that in imposing any penalty upon any violators of the within clause, it will not discriminate in the levying of such penalties among the participants of the unauthorized strike, work stoppage, or slowdown. . . .

In the event that any employee is discharged or discriminated against such employee shall have the right to resort to the machinery of adjustment provided in this agreement, and the remedy prescribed shall be final and binding on the parties hereto. This paragraph shall not interfere with the necessary reduction of the working force in slack period.

Article VI

Settlement of Disputes—All price, rates of wages, disputes, or any grievances between the employer and the union, or any of the employees, shall, in the first instance, be taken up for adjustment between the union's plant steward and the employer; if a mutually satisfactory adjustment is not arrived at the union's business representative, or an international union representative, shall attempt to adjust the matter with the employer.

Should a controversy arise between said parties during the term of this agreement both parties agree to use all honorable means to bring about a fair adjustment. There shall be no cessation of work or withdrawal of members of the union while negotiations for adjustment of existing differences are pending during the term of this agreement.

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From the agreement between
GREENBELT CONSUMER SERVICES, INC., and the
AMALGAMATED MEAT CUTTERS AND BUTCHER
WORKMEN OF NORTH AMERICA
(expiration date September 1966)

Grievances and Arbitration

Article XVI. A. In the event a grievance or dispute arises under the terms and during the life of this agreement that cannot be adjusted by the union and the employer within a reasonable time, either party may request that such grievance or dispute be submitted to arbitration as follows:

Either party shall, in writing, notify the other of the need for the appointment of a board of arbitration and shall at the same time state the name of its representative on said board. Within 3 days after receipt of such notice, the other party shall designate, in writing, the name of its representative on said board. The two members so selected shall within 5 days select a third member of the board of arbitration. If within the said 5 days the two members are unable to agree on the third member of the board, either party may request the American Arbitration Association to designate the third member of the board. The board of arbitration shall meet within 5 days after the selection of the third member, who shall be its chairman, and shall conduct a hearing and receive testimony and shall thereafter within 5 days submit its findings and render its decision in writing. The decision of a majority of the board shall be binding and conclusive on the parties hereto as well as on the parties directly affected thereby. The expense of the third member of the board shall be borne equally between the employer and the union. There shall be no strike or lockouts pending the decision of the Board of Arbitration.

B. Under all circumstances, an employee or the union must give the employer notice in writing of intention to contest discharge or disciplinary action within 30 days from the date on which the employee has received notice of the discharge or disciplinary action. If such notice is not so given, the aggrieved party and the union shall be deemed to have waived its or their rights to arbitration.

C. The executive board of the local union shall have the final authority, in respect to any aggrieved employee covered by this agreement, to decline to process a grievance, complaint, difficulty or dispute; further, if in the judgment of the executive board such grievance or dispute lacks merit or lacks justification under this agreement to the satisfaction of the union executive board.

Strikes and Lockouts

Article XVIII. A. Except for:

(1) Refusal to comply with the arbitration machinery set forth herein, or

(2) Refusal to comply with the decision of the board of arbitration, there will be no strikes or lockouts during the existence of this agreement. The union agrees that during such time it will not order, but will use every effort to prevent a concerted cessation of work by any of the employees of the employer for any reason. Nothing herein contained shall compel any employee to walk through a picket line; provided, the picket line has the sanction of its own international union, and the Greater Washington Central Labor Council.

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From the agreement between
STERLING PAPER COMPANY and the
INTERNATIONAL BROTHERHOOD OF PULP,
SULPHITE AND PAPER MILL WORKERS
(expiration January 1968)

Should differences arise in the plant between the company and the union or its members employed by the company, or should any local trouble of any kind arise in the plant, such grievances shall be reported by the shop steward . . . but if the company and union are unable to come to a satisfactory conclusion the management of the company and the international union shall each select a representative. These two shall choose a third. If, however, within 5 days the third party cannot be chosen, the third arbitrator shall be selected by the State secretary of labor, and these three shall constitute an arbitration board, and their findings shall be final and binding upon both parties. Cost of third arbitrator shall be borne jointly by the company and the union.

Should the company discharge an employee for cause, it should subsequently be determined as provided above that the employee should be reinstated, such employee shall be reinstated and shall receive full pay for all time lost, but not to exceed the total of three weeks' pay unless hearings are delayed by the company.

Strikes, Etc.

The union and the company agree that there shall be no strikes, boycotts, lockouts, or general slowing down of production by employees during the life of this agreement and that in the event differences should arise between the company and the union, or its members employed by the company, as to the meaning and application of this agreement, or shall any local trouble of any kind arise in the plant, there shall be no suspension of work by the employees on account of such differences.

From the agreement between
CITY PRODUCTS COMPANY, CHICAGO HOUSE OF BEN FRANKLIN DIVISION and the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS OF AMERICA (Ind.)
(expiration date May 1967)

Section 11—Adjustment of Grievances

Should differences arise between the company and the union or its members employed by the company as to meaning and application of the provisions in this agreement, such differences shall be settled in the following manner: . . .

Upon failure to reach a settlement, the whole matter shall be referred to the representative of the union and the house manager.

If no agreement has yet been reached, the company and the union agree to submit the matter to arbitration and accept the decision of the majority of the arbitration board, consisting of one member selected by the company and one member selected by the union, and the third selected by the two arbitrators nominated as above. The decision of two or more of the three members shall be the decision on the arbitration of such controversies and shall be final and binding upon all parties thereto.

It shall be incumbent upon both parties to nominate the arbitrator within 5 days after such notice is given. The expense of such arbitration is to be borne equally between the company and the union.

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Section 13—Strikes and Walkouts

It is agreed that there shall be no strike, stoppage of work or lockouts during the period this agreement is in force, pending the adjustment of any dispute in accordance with the machinery set forth in section 11.

It shall not be a violation of this agreement for the employees covered hereunder to refuse to cross a picket line legally established or approved by Local 743 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

From the agreement between
NOSCO PLASTICS, INC., and the
UNITED RUBBER, CORK, LINOLEUM AND
PLASTIC WORKERS OF AMERICA
(expiration date April 1967)

A grievance is a complaint, dispute or controversy in which it is claimed that the company has failed to comply with an obligation assumed by it under the terms of this agreement, and which involves either (1) a dispute as to the facts involved, (2) a question concerning the meaning, interpretation, scope or application of this agreement or (3) both. . . .

1. Within 30 working days after the company's final answer, Step (d), to a grievance, either party may refer the matter to arbitration by written notice to the other unless it is mutually agreed to extend the above time limit.

2. Upon notice of a desire to arbitrate from either party to the other in writing and if the parties are unable to mutually agree upon an arbitrator, the Federal Mediation and Conciliation Service will be requested to submit the names of five persons qualified to act as arbitrator. The representatives of the union and representatives of the company shall each have the choice of rejecting the names of two of these five persons, and the remaining or fifth shall be the arbitrator. The decision of the arbitrator shall be final and binding on both parties and compliance effected within 5 working days if possible. The agreed expense of any arbitration, excluding attorney fees, shall be shared equally by both parties.

3. It is understood and agreed that the arbitrator shall have no right or power to add to or subtract from or to change the terms of this agreement and that the arbitrator shall have no right or power to disregard any of the expressed provisions of this agreement. The general wage scale will not be subject to arbitration. . . .

Since adequate provisions are hereby made for the handling of grievances, there shall be no slowdown, sitdown, stoppage of work, strike, or lockout over matters subject to the grievance procedure, including arbitration. . . .

From the agreement between
SAW SERVICE INDUSTRY—CALIFORNIA, and the
UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA
(expiration date May 1966)

Section 8—Arbitration

(a) If any question is raised as to either party violating this agreement, the complaining party shall take the matter up with the other party, and unless a satisfactory settlement is reached within 48 hours either party shall have the right of appeal to an arbitration committee which shall consist of two representatives of the employer and two representatives of the union. Pending the decision of this committee neither party to this agreement shall take any action that will in any way delay or interrupt the orderly conduct of the business interests herein represented. Provided, however, that if the committee shall fail to agree within 48 hours after formal notification of the invocation of this clause is made by either party to this agreement, they shall immediately choose a fifth disinterested member and shall render a decision within 5 working days after the appointment of such fifth member. The decision of this committee shall be final and binding upon all parties concerned.

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(b) If the committee shall fail to agree on a fifth disinterested member, then the director of the Federal Mediation and Conciliation Service shall submit a list of five names, two of which may be stricken by the union, two by the company, and the remaining to be the fifth arbitrator.

(c) It is agreed by the union and the employer, parties hereto, that during the term of this agreement there shall be no strike or lockout or boycott of the employer's products by the unions, parties hereto, or by the employers, parties hereto, until all of the foregoing have been complied with. . . .

Upon failure of a company signatory hereto to pay the benefits as set forth in this employer-employee agreement, such as health and welfare, vacations, holidays, wages, overtime or any other payments, the union representative shall give 10 days prior written notice demanding payments due. If this is not complied with by the company, then section 8 [arbitration] shall become inoperative and the union, at its discretion, may withdraw the employees from their place of employment until such benefits due are paid.

From the agreement between
GROUP HEALTH COOPERATIVE OF PUGET SOUND and the
WASHINGTON STATE NURSES ASSOCIATION (Ind.)
(expiration date June 1965)

It is the mutual desire of both parties that attempt be made to resolve all misunderstanding, differences or grievances that may result from interpretation or application of this agreement as close to the work situation as possible. Toward this end the following steps to solve problems will be followed in an effort to minimize the need for more formal procedures. . . .

Arbitration: If the problem or controversy has not been settled after going through the above steps either party shall give the other 5 days notice of its desire to arbitrate a stated point or points, and designate an arbitrator. The other party shall designate its arbitrator promptly and in case of its failure to do so within 5 days after such notice the arbitrator first appointed shall arbitrate the dispute alone.

If a second arbitrator is appointed, these two shall designate a third at once, and the decision of the majority of the three shall be final. If a third arbitrator cannot be agreed upon within 5 days, the regional director of the Federal Mediation and Conciliation Service shall be requested to designate the third arbitrator.

Cost of arbitration will be shared equally by the nurses association and the employer.

Arbitration, as herein represented shall apply during the period of negotiations, following reopening of the agreement, in case of wages, hours, and working conditions, and all pertinent matters to be embodied in the new agreement, after a reasonable period of time has been given to conclude the negotiations and reach a new agreement. This reasonable period of time is agreed to be 4 months after the expiration date. Either party may elect to submit the matter to arbitration in the manner set forth in the above mentioned section on arbitration. The arbitrator's decision shall be final and binding.

Strikes or Lockouts: This clause is included in recognition of the mutual responsibility of the Nurses Association and employer for continuity of patient care. For the duration of this agreement, the nurses association and its members will not cause, sanction, condone, take part in, or in any way directly or indirectly aid in any strike, walk-out, picketing, boycott, slowdown, or stoppage of work, or any other interference whatever with the efficient operation and conduct of the employer's business, or take any action whatever to prevent access of employees to the employer's place of business. The employer agrees that during this same period there shall be no lockouts, nor shall nurses be required to perform other than usual duties.

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From the agreement between
RHEEM MANUFACTURING COMPANY and the
INTERNATIONAL ASSOCIATION OF MACHINISTS
(expiration date May 1968)

Article XV

Grievance Procedure

Section 1—General

(a) Any dispute between the company and any employee as to the application of any provisions of this agreement shall be subject to adjustment in accordance with the procedure set forth in this article, provided that if any employee desires to process his own grievance he may do so, and in which case, the union shall have an opportunity to be present at hearings, and any settlement made shall not be inconsistent with this agreement.

(b) The union and the company recognize that either party to this agreement may file a grievance on its own behalf which specifically alleges a violation of the interpretation and application of this agreement. . . .

Step 4

If the grievance shall have been submitted but not adjusted under step 3, either party may thereupon request, in writing, that the grievance be submitted to arbitration if such request is made within 20 workdays after conclusion of step 3. Within 5 days upon receipt of such request, the arbitrators shall be chosen in the following manner; one shall be appointed by the company; one shall be appointed by the union; the two arbitrators so appointed shall then select a third. In the event the two arbitrators are unable to select a third arbitrator within 5 days from the date they shall have been appointed, they shall request the American Arbitration Association to submit one list of nine panel members from which the parties shall make their selections. If the selections of each party do not result in the designation of an arbitrator, the American Arbitration Association shall be requested to select the arbitrator. The decision of the arbitrators shall be final and conclusive on both the company and the union. Expenses of the arbitration shall be borne equally by the company and the union.

Section 3—Limitations Upon Arbitrators

Both parties to this agreement agree that the powers and jurisdiction of the arbitrators shall be limited as follows:

(a) They shall have no power to add to, or subtract from or modify any of the terms of this agreement.

(b) They shall have no power to establish production standards or wage schedules or to change any wage, except as and to the extent empowered under article VIII hereof. Any decisions made under article VIII shall be governed by the principle that any new, adjusted or modified base wage rate shall be in line with other rates in the plant.

(c) If any award of the arbitrators shall require the approval of any governmental agency, the said award shall be subject to such approval. Both parties shall join in requesting review by such agency.

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From the agreement between
COSBY—HODGES MILLING CORPORATION and the
RETAIL, WHOLESALE AND DEPARTMENT STORE UNION
(expiration date January 1968)

Article VII—Settlement of Disputes

Section 1

It is agreed that should any charge of violation of this agreement, charge of discrimination, grievance or dispute arise at any time on the part of the employees, the matter must be brought up within 5 days after the alleged occurrence. Such matters shall be settled in the following manner: . . .

D. In the event the dispute cannot be satisfactorily settled within 10 days after the matter has been brought up, then within 10 days it shall be appealed to an impartial umpire to be appointed by mutual consent of the parties hereto. The decision of the umpire shall be final and binding and to be rendered within 10 days after submission to him. The salary and expenses incident to the services of the umpire shall be shared equally by the company and the union.

E. If a dispute is decided in favor of the employee, such employee will be reinstated. The umpire shall determine whether or not the employee shall be paid for lost time in part or in whole.

F. In the event the company has a complaint for noncompliance with this agreement, it may, without waiver of any other rights or discretion of management held by it, take up the complaint with the grievance committee or principal official of the union in the district for immediate consideration and if not settled within 5 days, may require a decision by an umpire as above provided.

Section 2

There shall be no slowdowns, stoppage of work or lockout, pending the hearing and determination of any dispute, and conditions involved in the dispute shall remain the same during the hearing, and decision reached at any time of the proceedings as hereinabove provided, shall be final and binding on both parties and shall not be subject to reopening except by mutual consent. Any employee participating in or inciting a slowdown, work stoppage or strike shall be discharged at the election of the company or the union.

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Appendix E. Identification of Clauses

Clause number	Employer and union	Expiration date
1	Pittsburgh Coke and Chemical Co. Steelworkers (USA)	August 1965
2	General Telephone Co. of Michigan Electrical, Brotherhood (IBEW)	May 1967
3	The Martin Co. Auto (UAW)	November 1966
4	Federal Paperboard Co., Inc.—Federal Glass Co. Division Flint Glass (AFGW)	September 1965
5	General Dynamics Corp.—General Dynamics/Astronautics Engineers and Architects Association (Ind.)	December 1965
6	Sunbeam Corp. Machinists (IAM)	January 1964
7	Hamilton Manufacturing Co. Carpenters (CJA)	July 1964
8	Shoe Manufacturing—Mass. United Shoe Workers (USW)	January 1965
9	Woodworkers Association of Chicago Carpenters (CJA)	May 1964
10	Knitted Outerwear Manufacturers Association—Phildelphia Garment, Ladies (ILGWU)	June 1966
11	United States Steel Corp. Steelworkers (USA)	June 1965
12	Montgomery Ward and Co., Inc. Teamsters (TCWH) (Ind.)	June 1967
13	Western Electric Co., Inc.—Indianapolis Electrical, Brotherhood (IBEW)	September 1966
14	Campbell Soup Co. Packinghouse (UPWA)	March 1962
15	Greenlee Brothers and Co. Machinists (IAM)	December 1964
16	Western Electric Co., Inc.—Hawthorne Works—Chicago Electrical, Brotherhood (IBEW)	December 1963
17	Globe—Union, Inc. Allied Industrial Workers (AIW)	March 1966
18	Union Bag—Camp Paper Corp. Papermakers (UPP) and Pulp (PSPMW)	May 1965
19	Pacific Columbia Mills, Inc. Textile Workers Union (TWUA)	June 1965
20	Detroit Tooling Association Auto (UAW)	September 1964
21	Standard–Coosa–Thatcher Co. Textile Workers Union (TWUA)	September 1964
22	Riegal Paper Corp. Papermakers (UPP)	October 1965
23	Western Electric Co., Inc.—N.C. Communications (CWA)	December 1966
24	Aluminum Co. of America Auto (UAW)	July 1964
25	Studebaker Corp. Auto (UAW)	October 1964
26	Ford Motor Co. Auto (UAW)	August 1964
27	Montgomery Ward and Co., Inc.–Mail Order—Denver Teamsters (TCWH) (Ind.)	July 1967

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Clause number	Employer and union	Expiration date
28	Caterpillar Tractor Co.—Decatur Auto (UAW)	September 1964
29	ACF Industries, Inc.—Carter Carburetor Division Auto (UAW)	June 1965
30	Connecticut Co. Transit (ATU)	September 1965
31	National Lead Co. Fernald AFL–CIO Atomic Trade and Labor Council	September 1966
32	Cove Mills Corp. Textile Workers Union (TWUA)	September 1965
33	Pacific Telephone and Telegraph Co. and Bell Telephone Co. of Nevada–Plant–Nevada and California Communications (CWA)	January 1966
34	Babcock and Wilcox Co. Boilermakers (BBF)	July 1966
35	U.S. Metals Refining Co. Mine, Mill (MMSW) (Ind.)	June 1964
36	Bendix–Westinghouse Automatic Air Brake Co. Auto (UAW)	January 1965
37	Pacific Telephone and Telegraph Co.–Toll Maintenance–California and Nevada Electrical, Brotherhood (IBEW)	November 1966
38	Allen–Bradley Co. Electrical, United (UE) (Ind.)	March 1967
39	General Dynamics Corp.–Convair Division Machinists (IAM)	October 1965
40	Associated General Contractors of America, Inc.—and 2 others–Oregon. Laborers' (HCL)	December 1964
41	Douglas Aircraft Co.—Long Beach Auto (UAW)	July 1965
42	Westinghouse Electric Corp. Machinists (IAM)	November 1963
43	International Telephone and Telegraph Co.–ITT Federal Laboratories—New Jersey Electrical, International (IUE)	September 1964
44	Pineapple Companies Agreement Longshoremen and Warehousemen (ILWU) (Ind.)	January 1965
45	International Telephone and Telegraph Corp.–ITT Kellogg Electrical, Brotherhood (IBEW) and Machinists (IAM)	November 1963
46	Building Contractors' and Masons Builders' Association—New York Bricklayers (BMP)	May 1964
47	Pacific Telephone and Telegraph Co. and Bell Traffic—Nevada and California Communications (CWA)	October 1966
48	Hillman's, Inc. Building Service (BSE)	October 1965
49	General Electric Co. Electrical, United (UE) (Ind.)	October 1966
50	American Cable and Radio Corp. Communications (CWA)	May 1965
51	Northwestern Bell Telephone Co.—Interstate Communications (CWA)	September 1966
52	West Virginia Pulp and Paper Co.—Interstate Papermakers (UPP)	November 1963
53	General Dynamics Corp.—Electric Boat Division Marine Draftsmen's Association (Ind.)	February 1966
54	Cooper–Bessemer Corp. Steelworkers (USA)	August 1965
55	General Motors Corp. Auto (UAW)	August 1964

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Clause number	Employer and union	Expiration date
56	General Electric Co. Electrical, International (IUE)	October 1966
57	Pacific Northwest Bell Telephone Co. Communications (CWA)	October 1966
58	Chesapeake and Potomac Telephone Co.—Washington, D.C. Communications (CWA)	September 1966
59	J. F. McElwain Co. New Hampshire Shoe Workers Union of Manchester (Ind.)	June 1965
60	Food Employers Council and others—California Retail Clerks (RCIA)	March 1964
61	New York Times Co. Newspaper Guild (ANG)	March 1965
62	Bowling Proprietors Association of Chicago, Inc. Building Service (BSE)	August 1967
63	Affiliated Restauranteurs, Inc.—New York Hotel (HREU)	September 1965
64	Printing Industries of Metropolitan New York, Inc.— Printers League Section Printing Pressmen (IPPA)	April 1966
65	Printing Industries Association—Los Angeles Bookbinders (IBB)	July 1967
66	Beaunit Corp.—Beaunit Fibres Division Textile Workers Union (TWUA)	August 1965
67	Jones and Laughlin Steel Corp. Steelworkers (USA)	April 1965
68	Bethlehem Steel Corp. Steelworkers (USA)	April 1965
69	Rohr Corp.—Riverside Machinists (IAM)	July 1962
70	Armour and Co. Meat Cutters (MCBW)	August 1967
71	Allegheny Ludlum Steel Corp. Steelworkers (USA)	April 1965
72	Armco Steel Corp. Armco Employees Independent Federation, Inc. (Ind.)	May 1965
73	Bell Aerospace Corp.—Bell Aerosystems Co. Division Auto (UAW)	June 1966
74	Anaconda Co. Steelworkers (USA)	July 1964
75	Copeland Refrigeration Corp. Electrical, International (IUE)	June 1966
76	International Harvester Co. Auto (UAW)	September 1967
77	Landers, Frary and Clark Electrical, International (IUE)	August 1965
78	Olin-Mathieson Chemical Corp. District 50—Mine Workers (UMW-50) (Ind.)	November 1964
79	Retail Food, Bakery, Candy, and General Merchandise Agreement—California Retail Clerks (RCIA)	March 1969
80	Anaconda American Brass Co.—Wisconsin Directly affiliated local union	July 1962
81	Stanley Works and Stanley Tool Division Machinists (IAM)	January 1966
82	Olin-Mathieson Chemical Corp. Machinists (IAM)	July 1966
83	Popular Priced Dress Manufacturers' Group, Inc. Garment, Ladies (ILGWU)	July 1967
84	Clothing Manufacturers' Association of the United States of America Clothing (ACWA)	May 1966

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Clause number	Employer and union	Expiration date
85	American Shipbuilding Co. 7 AFL–CIO affiliated unions	August 1966
86	Ex-Cello Corp. Auto (UAW)	March 1965
87	Maytag Co. Auto (UAW)	November 1964
88	McQuay—Norris Manufacturing Co. Auto (UAW)	June 1964
89	Central Southwestern Greyhound Lines Transit (ATU)	October 1962
90	Lynchburg Foundry Steelworkers (USA)	April 1967
91	New York City Transit Authority Transit (ATU)	December 1965
92	Fafnir Bearing Co. Machinists (IAM)	February 1964
93	Richfield Oil Corp. Oil, Chemical and Atomic Workers (OCAW)	June 1966
94	American Can Company Steelworkers (USA)	September 1964
95	Milk Wagon Drivers Agreement—Missouri Teamsters (TCWH) (Ind.)	June 1964
96	Dow Chemical Co. District 50—Mine Workers (UMW–50) (Ind.)	March 1965
97	Westinghouse Electric Corp.—Standard Control Division Electrical, Brotherhood (IBEW)	November 1966
98	Noma Lites, Inc. Electrical, Brotherhood (IBEW)	February 1963
99	Dayton Power and Light Co. Utility (UWU)	October 1965
100	Rockwell—Standard Corp. Auto (UAW)	November 1964
101	McLouth Steel Corp. Steelworkers (USA)	December 1965
102	New Jersey Bell Telephone Co. Electrical, Brotherhood (IBEW)	December 1966
103	Bell Aerospace Corp.—Bell Aerosystems Co. Division Auto (UAW)	May 1966
104	Chrysler Corp. Auto (UAW)	September 1967
105	Columbia Broadcasting System Electronics Electrical, International (IUE)	March 1962
106	Thompsons' Dairy—Washington, D.C. Teamsters (TCWH) (Ind.)	June 1966
107	Century Electric Co. Electrical, International (IUE)	September 1963
108	San Francisco Retailers Council Retail Clerks (RCIA)	May 1961
109	(Confidential)	February 1962
110	Schenley Distillers, Inc. Distillery (DRWW)	March 1965
111	I/A Retail Food Stores—Oregon Retail Clerks (RCIA)	April 1967
112	Nordberg Manufacturing Co. Steelworkers (USA)	August 1964
113	General American Transportation Corp. Steelworkers (USA)	December 1964
114	Illinois Bell Telephone Co. Communications (CWA)	May 1967
115	Motion Picture Service Industry—New York Stage Employees (IATSE)	September 1965

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Clause number	Employer and union	Expiration date
116	Metropolitan Package Store Association, Inc. Distillery (DRWW)	December 1966
117	Pacific Coast Association of Pulp and Paper Manufacturers Papermakers (UPP) and Pulp (PSPMW)	May 1964
118	The Associated General Contractors of America—Michigan Laborers' (HCL)	May 1962
119	City of Boston Hotel Association Hotel (HREU)	November 1964
120	Pacific Telephone and Telegraph Co. Communications (CWA)	November 1966
121	Automatic Electric Co. Electrical, Brotherhood (IBEW)	October 1966
122	Associated General Contractors of America and 3 others—California Operating Engineers (IUOE)	May 1965
123	Washington Gas Light Co. Chemical (ICW)	May 1964
124	Acme Steel Company—Newport Division Steelworkers (USA)	April 1965
125	United States Steel Corp.—American Bridge Division Steelworkers (USA)	June 1964
126	Realty Advisory Board on Labor Relations, Inc. Building Service (BSE)	December 1965
127	Publishers Association of New York City Newspaper and Mail Deliverers (NMD) (Ind.)	March 1965
128	Oliver Corp. Auto (UAW)	September 1964
129	Fairchild Camera and Instrument Corp.—Allen B. Du Mont Laboratories, Inc. Division Electrical, International (IUE)	March 1964
130	Continental Can Co., Inc. Steelworkers (USA)	September 1964
131	National Skirt and Sportswear Association, Inc. Garment, Ladies (ILGWU)	May 1964
132	General Motors Corp. Electrical, International (IUE)	August 1964
133	SKF Industries, Inc. Steelworkers (USA)	October 1965
134	B.F. Goodrich Footwear Co. Directly affiliated local union	May 1965
135	Lukens Steel Co. Steelworkers (USA)	October 1964
136	Elktra Corp., Mergenthaler Linotype Division Auto (UAW)	February 1965
137	Bates Manufacturing Co. Textile Workers Union (TWUA)	June 1964
138	Associated Spring Corp. Auto (UAW)	October 1963
139	Mueller Brass Co. Auto (UAW)	October 1964
140	Koppers Company, Inc. Machinists (IAM)	October 1965
141	Continental Steel Corp. Steelworkers (USA)	July 1964
142	Armco Steel Corp. Steelworkers (USA)	October 1965
143	Parke, Davis and Co. Oil, Chemical and Atomic Workers (OCAW)	April 1965
144	Associated Cleaning Plant Owners of Greater Kansas City Laundry, Dry Cleaning (LWIU) (Ind.)	March 1966

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Clause number	Employer and union	Expiration date
145	Massachusetts Leather Manufacturers Association Leather Workers (LWU)	September 1965
146	Chrysler Corp.—Office Auto (UAW)	August 1964
147	Northrop Corp.—Ventura Division RPA Inc. (Ind.)	August 1964
148	Atlantic Steel Co. Steelworkers (USA)	April 1965
149	International Nickel Co. Steelworkers (USA)	January 1966
150	Underground Contractors Association Laborers' (HCL)	May 1963
151	Sperry Rand Corp.—Remington Office Machines Division Machinists (IAM)	June 1964
152	Anchor Hocking Glass Corp. Flint Glass (AFGW)	September 1965
153	Raytheon Co. Electrical, Brotherhood (IBEW)	August 1965
154	RCA Communications, Inc. Communications Association (ACA) (Ind.)	May 1965
155	California Sportswear and Dress Association, Inc. Garment, Ladies (ILGWU)	December 1964
156	Kimberly-Clark Corp.—Memphis Pulp (PSPUW) and Papermakers (UPP)	July 1964
157	B.F. Goodrich Co. Rubber (URW)	April 1965
158	New York City Transit Authority Transport Workers (TWU)	December 1965
159	Philadelphia Food Employers Labor Council Retail Clerks (RCIA)	March 1965
160	Amphenol-Borg Electronics Corp. Electrical, Brotherhood (IBEW)	December 1966
161	Jewelry Manufacturers Association, Inc. Jewelry (JWU)	January 1966
162	Avco Corp.-Lycoming Division—Williamsport Auto (UAW)	May 1965
163	Servus Rubber Co. Rubber (URW)	October 1964
164	General Controls Co. Machinists (IAM)	February 1962
165	Timken Roller Bearing Co. Steelworkers (USA)	August 1965
166	United Popular Dress Manufacturers Association Garment, Ladies (ILGWU)	January 1964
167	Ametek Inc.—U.S. Gauge Division Machinists (IAM)	September 1964
168	Hughes Aircraft Co. Carpenters (CJA)	November 1964
169	General Dynamics Corp.—General Dynamics/Astronautics Engineers and Architects Association (Ind.)	December 1965
170	Gates Rubber Co. Rubber (URW)	June 1966
171	Lockheed Aircraft Corp.—Los Angeles Machinists (IAM)	July 1965
172	Metropolitan Edison Co. Electrical, Brotherhood (IBEW)	April 1964
173	Publisher's Association of New York City Printing Pressmen (IPPA)	June 1965
174	R.H. Macy and Co., Inc.—Macy's New York Retail, Wholesale (RWDSU)	January 1968

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Clause number	Employer and union	Expiration date
175	I/A Laundry Industry Master Agreement—New York Metropolitan Area Clothing (ACWA)	November 1966
176	Lily–Tulip Cup Corp. Printing Pressman (IPPA)	September 1963
177	John Hancock Mutual Life Insurance Co. Insurance Workers (IWIU)	June 1964
178	Glass Container Manufacturers Institute, Inc. Glass Bottle (GBBA)	March 1965
179	American National Insurance Co. Insurance Workers (IWIU)	December 1965
180	Scott and Williams, Inc. Steelworkers (USA)	May 1967
181	Women's Neckwear and Scarf Association, Inc.—New York Garment, Ladies (ILGWU)	April 1966
182	I/A Retail Shoe Stores—New York Retail, Wholesale (RWDSU)	July 1964
183	Men's Neckwear Association of New York, Inc. Clothing (ACWA)	August 1964
184	Aluminum Company of America Steelworkers (USA)	May 1965
185	Southern California Edison Co. Electrical, Brotherhood (IBEW)	December 1964
186	Woodwork Employers Association—Oregon Carpenters (CJA)	February 1964
187	Fairchild Hiller—Aircraft–Missiles Division Auto (UAW)	January 1967
188	Bendix Corp. Auto (UAW)	October 1964
189	Norton Co.–Behr—Manning Division Papermakers (UPP)	April 1965
190	National Castings Co. Auto (UAW)	February 1965
191	McGraw–Edison Co.—Pennsylvania Transformer Division Steelworkers (USA)	January 1966
192	First National Stores, Inc. Meat Cutters (MCBW)	August 1964
193	Continental Motors Corp. Auto (UAW)	January 1965
194	Humble Oil and Refining Co. Independent Petroleum Workers Union of Bayway (Ind.)	October 1963
195	Iron League of Philadelphia and Vicinity Iron Workers (BSOIW)	July 1966
196	General Telephone Co. of Ohio Communications (CWA)	December 1963
197	(Confidential)	May 1965
198	Caterpillar Tractor Co. Machinists (IAM)	January 1965
199	International Harvester Co.—Milwaukee Works Directly affiliated local union	September 1964
200	Furniture Manufacturers—New York Furniture (UFW)	August 1963
201	American Metal Climax Co.–Climax—Molybdenum Co. Division Oil, Chemical and Atomic Workers (OCAW)	July 1965
202	Columbia Broadcasting System, Inc. Electrical, Brotherhood (IBEW)	June 1961
203	Deere and Company Auto (UAW)	January 1964
204	Minneapolis—Moline, Inc. Auto (UAW)	April 1965

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Clause number	Employer and union	Expiration date
205	Buckeye Steel Castings Co. Steelworkers (USA)	February 1967
206	Garlock Co. Machinists (IAM)	February 1965
207	Structural Steel and Ornamental Iron Association of New Jersey, Inc. Iron Workers (BSOIW)	September 1964
208	North American Aviation, Inc. Auto (UAW)	June 1962
209	Erwin Mills, Inc. Textile, United (UTWA)	April 1964
210	Chicago Rawhide Manufacturing Co. Meat Cutters (MCBW)	April 1966
211	Olin–Mathieson Machinists (IAM)	November 1962
212	Sylvania Electric Products, Inc. Electrical, United (UE) (Ind.)	April 1965
213	Building Owners and Managers Association of San Francisco Building Service (BSE)	May 1964
214	Alabama Power Co. Electrical, Brotherhood (IBEW)	August 1965
215	Loblaw, Inc. Meat Cutters (MCBW)	May 1963
216	The Hoover Co. Electrical, Brotherhood (IBEW)	March 1966
217	United Aircraft–Pratt and Whitney Aircraft Division Machinists (IAM)	January 1966
218	General Dynamics Corp.—General Dynamics/ Astronautics Division Machinists (IAM)	October 1965
219	Manufacturers Association of Robes, Leisurewear, Shirts and Rainwear, Inc. Clothing (ACWA)	August 1965
220	Western Union Telegraph Co. Telegraphers' (CTU)	May 1966
221	Granite City Steel Co. Steelworkers (USA)	April 1965
222	Long Island Lighting Co. Electrical, Brotherhood (IBEW)	June 1965
223	Celanese Corp. of America—Celanese Fibers Co. Division District 50—Mine Workers (UMW—50) (Ind.)	February 1967
224	I/A Paper Box Manufacturers—Philadelphia Pulp (PSPMW)	August 1964
225	Chesapeake and Potomac Telephone Co. of Virginia Communications (CWA)	October 1966
226	Southern Florida Hotel and Motel Association Hotel (HREU)	August 1969
227	Pacific Coast Shipbuilders' Agreement Pacific Coast Metal Trades Council and Teamsters (TCWH) (Ind.)	June 1965
228	The Martin Co. Auto (UAW)	July 1963
229	Whirlpool Corp. Machinists (IAM)	May 1964
230	Woven Label Companies of New York–New Jersey Area Textile, United (UTWA)	May 1964
231	Defoe Shipbuilding Co. Marine and Shipbuilding (IUMSW)	July 1964
232	Merck and Co., Inc., Pennsylvania and New Jersey Oil, Chemical and Atomic Workers (OCAW)	April 1964

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Clause number	Employer and union	Expiration date
233	National Can Co. Steelworkers (USA)	April 1965
234	American Bosch Arma Corp. Electrical, International (IUE)	September 1964
235	Sun Shipbuilding and Dry Dock Co. Boilermakers (BBF)	January 1967
236	Ling–Temco Vought, Inc. Machinists (IAM)	October 1965
237	Bendix Corp.—Kansas City Machinists (IAM)	January 1966
238	I/A Clay Sewer Pipe Companies—Pennsylvania, Ohio and Indiana Brick and Clay (UBCW)	April 1967
239	Atlantic and Gulf Coast Companies and Agents Marine Engineers (MEBA)	June 1965
240	The Youngstown Sheet and Tube Co. Steelworkers (USA)	April 1965
241	Sundstrand Corp.—Rockford and Belvidere, Ill. Auto Workers (UAW)	January 1968
242	International Milling Co. Grain Millers (AFGM)	March 1966
243	Associated General Contractors of America, Inc.—Cincinnati Carpenters (CJA)	March 1967
244	Philadelphia Beer Distributors Association and three others Teamsters (TCWH) (Ind.)	September 1966
245	New Jersey Brewers Association Teamsters (TCWH) (Ind.)	May 1967
246	I/A Plain Dye and Machine Print Companies—New York and New Jersey Textile Workers Union (TWUA)	October 1966
247	Standard Brands, Inc. Brewery (BFCSD)	April 1964
248	Chicago Association of Dress Manufacturers—Chicago Garment, Ladies (ILGWU)	June 1962
249	Green Shoe Manufacturing Co.—Boston Boot and Shoe (BSW)	December 1964
250	Eastern Cement Haulers Association Teamsters (TCWH) (Ind.)	February 1965
251	Infants' and Children's Coat Association, Inc. and Manufacturers of Snowsuits, Novelty Wear and Infants' Coats, Inc. Garment, Ladies (ILGWU)	May 1967
252	I/A Deep Sea Passenger Freighter Companies National Maritime Union (NMU)	June 1969
253	General Dynamics Corp.–Stromberg–Carlson Division Rochester Independent Workers (Ind.)	August 1964
254	Marine Towing and Transportation Employer's Association Oil Tankers National Maritime Union (NMU)	January 1962
255	Public Service Electric and Gas Company Utility Co-Workers' Association (Ind.)	April 1967
256	Olin–Mathieson Chemical Corp., E.K. Squibb Division—New Brunswick Oil, Chemical and Atomic Workers (OCAW)	May 1967
257	Manufacturers and Repairers Association of New Orleans Metal Trades Council	February 1964
258	National Electrical Contractors Association of Detroit Electrical, Brotherhood (IBEW)	April 1966
259	Construction Contractors Council—Washington, D.C. and vicinity Laborers' (HCL)	April 1966

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Clause number	Employer and union	Expiration date
260	National Electrical Contractors Association—Los Angeles Electrical, Brotherhood (IBEW)	May 1966
261	Eastern Women's Headwear Association—New York, New Jersey Hatters (HCMW)	December 1965
262	I/A South Central Employees—Construction Boilermakers (BBF)	May 1966
263	Bay Area Painters and Decorators Joint Committee, Inc. Painters (BPDP)	June 1965
264	Associated Producers and Packers, Inc.—Washington Teamsters (TCWH) (Ind.)	April 1965
265	I/A Newspaper Deliverers—Metropolitan New York Newspaper and Mail Deliverers (NMD) (Ind.)	May 1965
266	Professional Laundry Institute of Chicagoland Laundry, Dry Cleaning (LWIU) (Ind.)	August 1965
267	Utah Power and Light Co.—Utah, Idaho, and Wyoming Electrical, Brotherhood (IBEW)	January 1966
268	Kansas City Transit, Inc. Transit (ATU)	October 1965
269	D.C. Transit System, Inc.—Washington, D.C. Transit (ATU)	October 1965
270	I/A Twin City Hospitals Minnesota Nurses Association (Ind.)	May 1967
271	Detroit Mason Contractors' Association Bricklayers (BMP)	April 1966
272	Printing Industries of Metropolitan New York Printing Pressmen (IPPA)	April 1964
273	I/A Cotton Garment Companies—Philadelphia Clothing (ACWA)	August 1965
274	R.H. Macy and Co., L. Bamberger Division—New Jersey Retail Clerks (RCIA)	January 1969
275	Restaurant—Hotel Employers Council Hotel (HREU)	March 1967
276	Association of Knitted Fabrics Manufacturers, Inc.—New York Garment, Ladies (ILGWU)	July 1967
277	Associated Hotels, Inc.—New York Building Service (BSE)	May 1962
278	United Parcel Service of New York, Inc.—New York and New Jersey Teamsters (TCWH) (Ind.)	March 1965
279	I/A Ice Cream Companies—Pennsylvania, New Jersey, and Delaware Teamsters (TCWH) (Ind.) and Firemen and Oilers (IBFO)	January 1963
280	National Association of Doll Manufacturers, Inc.—New York Dolls and Toys (IDTW)	June 1967
281	Associated Restaurants of Oregon Hotel (HREU)	May 1967
282	Elgin National Watch Co. Watch Workers (AWWU) (Ind.)	August 1964
283	Electric Auto—Lite Co. Auto (UAW)	February 1965
284	Union Carbide Corp., Union Carbide Metals Co. Division Oil, Chemical and Atomic Workers (OCAW)	April 1964
285	Erie Forge and Steel Corp. Steelworkers (USA)	August 1965
286	Yale and Towne, Inc. Machinists (IAM)	August 1967
287	Associated General Contractors of Minnesota, Inc. Operating Engineers (IUOE)	December 1965

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Clause number	Employer and union	Expiration date
288	Builders Association of Kansas City, Missouri Teamsters (TCWH) (Ind.)	March 1966
289	Associated General Contractors of America, Inc.— Northern and Central California Teamsters (TCWH) (Ind.)	April 1965
290	Associated General Contractors and others—Arizona AFL–CIO Building Trades Unions and Teamsters (TCWH) (Ind.)	May 1970
291	Associated General Contractors and others—San Diego AFL–CIO Building Trades Unions and Teamsters (TCWH) (Ind.)	April 1965
292	Associated General Contractors of America, Inc.— New Orleans AFL–CIO Building and Construction Trades Council and Teamsters (TCWH) (Ind.)	April 1964
293	Associated General Contractors of America, Inc.—Utah Carpenters (CJA)	June 1966
294	Contracting Plasterers' Association of Greater New York Plasterers (OPCM)	June 1965
295	Employing Metallic Furring and Lathing Association of New York Lathers (WWML)	June 1966
296	Association of Master Painters and Decorators of the City of New York, Inc. Painters (BPDP)	July 1965
297	Contracting Plasterers Association of Southern California, Inc. Laborers' (HCL)	April 1967
298	Associated General Contractors, Inc. and others— Southern California Teamsters (TCWH) (Ind.)	May 1968
299	Associated General Contractors, Inc.—Spokane and Eastern Washington Teamsters (TCWH) (Ind.)	April 1965
300	New England Road Builders Association, Inc.— Connecticut Division Teamsters (TCWH) (Ind.)	April 1967
301	New England Steel Erectors Association and others Iron Workers (BSOIW)	June 1962
302	Associated General Contractors of Minnesota Bricklayers (BMP)	April 1963
303	Southwestern Michigan Contractors Association Laborers' (HCL)	April 1966
304	The Carpenter Contractors Association of Cleveland and The Building Trades Employers Association of Cleveland Carpenters (CJA)	April 1967
305	Associated General Contractors, Inc.—Washington and Idaho Carpenters (CJA)	May 1968
306	Mason Contractors Exchange of Southern California, Inc. Laborers' (HCL)	April 1967
307	Associated Contractors of Essex County, Inc.—New Jersey Carpenters (CJA)	April 1969

NOTE: All unions are affiliated with the AFL–CIO except those followed by (Ind.).

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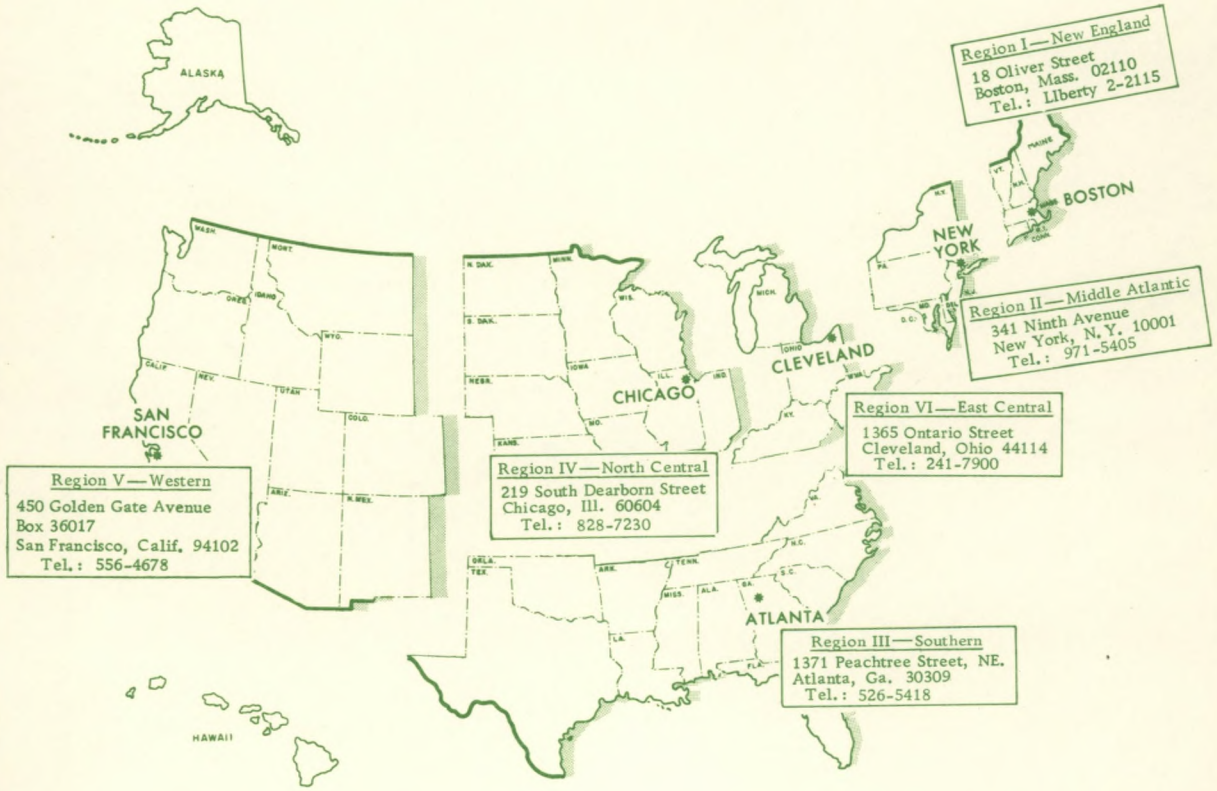
BUREAU OF LABOR STATISTICS REGIONAL OFFICES



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