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This guide provides management with specific procedural and tactical advice to be used while negotiating a labor union contract. The first 10 chapters suggest management techniques for collection and evaluation of pertinent information, evaluation of past negotiation experiences, formulation of company proposals, selection of the company negotiating team, use of visual aids, final preparation for negotiation, and conduct of the negotiating team. Chapter 11 offers a list of questions related to 24 typical negotiation issues which are likely to arise during negotiations. Impasse procedures and general "do's and don'ts" of bargaining are suggested in the final two chapters. The appendices include (1) a checklist on cost of fringes, (2) definitions of union security terms, (3) 13 selected references dealing with collective bargaining, and (4) related NAM publications. (JH)

WHEN MANAGEMENT NEGOTIATES

A GUIDEBOOK FOR SOUND COLLECTIVE BARGAINING

Subcommittee on Collective Bargaining
INDUSTRIAL RELATIONS COMMITTEE

NATIONAL ASSOCIATION OF MANUFACTURERS
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FOREWORD

The extent to which management does a careful job of preparatory thinking and fact gathering, prior to negotiations, will—

. . . determine the nature of the contract that is signed, and

. . . have an important impact—for better or worse —on the operating efficiency of the company, on employer-employee relationships, and on the short- and long-term economic stability of the organization.

This is true whether you are a veteran at the bargaining table or a *first-timer*. It is vital for management to think through every issue in the contract—no matter how minor—on the basis of the needs and problems of its everyday operations, and to arrive at decisions in its own mind with respect to ultimate action on these points at the bargaining table.

This guide is designed to provide management with practical assistance in developing a responsible and constructive approach to the bargaining process.

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I. PREREQUISITES FOR SOUND BARGAINING

The establishment of a sound labor relations policy is a prerequisite to successful collective bargaining. This means that the management of the company should give thought to its basic philosophy of relations with employees and their representatives. Its policy needs to be such as

—to provide the company with a steady, ample, competent labor force, fairly and adequately paid

—to permit the company the flexibility it needs to manage efficiently

—to preserve the interest of shareholders and customers

—to encourage employees, through effective communication, to identify with company objectives.

These views will vary from company to company—and even within a company from time to time. Whether in writing or not, this basic philosophy should be well understood as the foundation of the company's labor policy.

Some important steps in preparing to bargain include:

A. Thorough study of the present contract (or the existing terms and conditions of employment in the case of a first contract) with a view to identifying sections that require modifications.

B. Close analysis of grievances in order to discover unworkable or poor contract language, or situations which are creating problems in supervisory-employee relationships.

C. Frequent conferences with line supervision for the dual purpose of improving the supervisor's knowledge of contract administration and obtaining information as to how the contract is working out in practice.

D. Review of current union agreements signed by typical and comparable companies in the community and the industry, with the same or other unions.

E. Study of labor relations reporting services and NAM, National Industrial Council, or other employer association reports on labor relations matters for the purpose of keeping abreast of recent developments that may affect future contract negotiations.

F. Collection and analysis of economic data on issues likely to be of importance in the next negotiations.

G. Study and analysis of arbitration decisions under the current contract with a view to formulating proposals for changed contract language at the next negotiations.

A periodic audit of the existing agreement should be made so that the negotiator may avoid the element of surprise during the actual negotiations. This

audit should reveal contract violations and new practices which may have been instituted during the term of the contract, as well as any oral or written agreements which may have been reached which are in conflict with the contract or amend it in any way.

The company should determine the short- and long-range objectives it intends to achieve in the course of negotiations. The short-range objective is to reach a fair, equitable and honorable settlement for the new contract term. Long-range objectives are more subtle and somewhat amorphous. Although it is an over-simplification, long-range objectives involve laying the industrial relations groundwork and developing contractual obligations which are tailored to best fit the future plans of the operating unit several labor contracts hence.

II. GATHERING THE INFORMATION

The management negotiator has the fundamental task of selecting and compiling adequate and pertinent data to assure himself that he will not be confronted with unexpected issues or demands, and that his decisions will be made on the basis of complete and accurate knowledge. It is necessary to prepare for reasonably foreseeable demands that may be made by the union. The gathering of information is a two-stage operation, each of equal importance:

A. Collecting throughout the year all information bearing on the company's internal experience in administering the contract, and upon its relationships with employees and their representatives.

   Around the calendar, reviewing labor publications and reports to keep abreast of bargaining demands made by the local union which represents the company's employees, as well as its international union both in and out of the company's industry and demands made by other unions on other companies in the industry and the community.

B. As reopening date approaches, formulation of management's position with respect to all anticipated union demands; the preparation of its own demands; estimating the costs of expected proposals; marshaling company arguments; and the compilation, verification and reduction to final form of facts and figures, both from internal and external sources, to support these positions and demands.

III. EVALUATING PAST CONTRACT EXPERIENCE

An audit of the agreement should be made continuously during the year through the regular analysis of grievances and through information supplied by supervision and other personnel. Weak and faulty clauses should be identified, and case histories and statistics compiled to support any desired changes. For example:

A. Have grievances filed during the year been studied, classified and analyzed?

B. Does the grievance analysis indicate the number of grievances alleging violation of each contract clause?

C. Does the analysis show the number of grievances settled at each step of the grievance procedure?

D. Have you classified the number and type of grievances from each department or area?

E. Does the analysis include the cost to process and settle the grievances?

F. Does arbitration experience indicate the exact change that the decisions have made in the original contract intent?

G. Have arbitration awards been analyzed to indicate how each has invaded or altered company policy?

H. Have arbitration decisions been analyzed to determine what changes are required in the existing contract?

I. Has there been an analysis of time and expense of union stewards acting on union business on company time?

J. Are full facts available concerning work stoppages or slowdowns, if any, during the year?

K. Have penalties been attached to employees' leaving the plant without permission so that sudden walkouts and wildcat strikes may be minimized?

L. Have charges of contract violations by company or union been fully explored and documented?

M. Has the impact of make-work provisions, sleepers and restrictive clauses been evaluated, looking toward the possibility of elimination?

N. Have discussions during the past year with the union bargaining committee been reviewed and analyzed?

O. Are written reports submitted by all levels of management on all oral discussions with union representatives regarding interpretation of various contract clauses?

P. Have reports of all supervisory meetings on contract and personnel practices been reviewed for possible suggestions on contract changes?

Q. Are all levels of supervision required to report difficulties in operating under the existing agreement and to suggest remedies?

R. Have the supervisory comments been categorized and considered in the light of company counter-proposals?

IV. EXAMINING PRIOR TECHNIQUES IN NEGOTIATIONS

The effectiveness of management strategy at the bargaining table can always be improved by an objective reappraisal of how previous negotiations were handled.

A. If the union obtained concessions on key issues, have these been evaluated and their impact listed with experience to date noted?

B. If initiative was taken away from the chief negotiator, have the reasons been explored and strategy weaknesses corrected?

C. Have tactics in meeting unexpected demands been reviewed and improved?

D. If exhibits or visual aids are to be used during negotiations, when and how they can be introduced most effectively?

E. If the accuracy of data or facts presented was challenged, have the sources been checked and controls set up to insure accuracy and clarity?

F. Have union committee attitude, techniques, strategy, and flexibility been analyzed, discussed and recorded for reference?

G. Where previous union negotiating demands conflicted with grievance settlements, is the company prepared with examples to reveal union inconsistency?

H. If daily bulletins were released for employee information, did they achieve their purpose of keeping employees informed?

I. Have plans been made to improve channels for getting daily information to supervision, to dispel wild rumors and misstatements during negotiations?

J. Has a program been in progress to help union officials appreciate the mutual interests of employer, employee and union—and the economic facts of life for company survival and growth?

V. COLLECTION OF DATA

The collection of appropriate data for collective bargaining is a vital step in the whole negotiating process. It accomplishes two objectives:

—to gather the information essential to effective collective bargaining;

—to assist management in maintaining and improving its relationships with employees through recognition of employees' needs and desires.

In addition to the information covered in Sections I through IV, the following data should be available:

A. *Wages*

During the usual negotiations a wage rate increase is quite often a major union objective. Preparation in this area should be complete and factual if an effective presentation is to be made.

Have the following been compiled for a minimum of 12 months:

1. Average straight time hourly and weekly earnings in the bargaining unit?
2. Average gross hourly and weekly earnings in the bargaining unit?
3. A distribution or breakdown of the above by department, occupation, shift, and length of service?
4. Average premium pay per hour by job classification?
5. Average premium pay per hour per department?
6. Beginning rates for all classifications?
7. Are the same rates paid for the same job?
8. List of employees with "red circle" rates?
9. Job descriptions?
10. Job evaluation plan?
11. Employee merit rating plans?
12. Wage incentive plans?
13. Employee rate progression plans?
14. Comparisons of the company's wage structure—rates and earnings —with comparable companies and up-to-date figures for
    a. Competitive industry?
    b. Community?
    c. Specific companies?
    d. All manufacturing?
15. Lists of pertinent wage settlements in:
    a. Competitive industry?
    b. Community?
    c. Specific companies?
16. Estimated cost of union's demands?
17. Estimated cost (or savings) of company's proposals?
18. Estimated cost of bargaining-unit wage increase as it will affect non-bargaining unit employees?
19. Cost of living data and comparison of increases vs. earnings?

B. *Hours*

Hours of work have been one of the chief sources of controversy in collective bargaining. In collecting data for contract negotiations, all available information concerning hours worked should be compiled for reference and presentation if necessary.

1. Have average weekly hours over the past year been figured?
2. Have the hours been averaged by:
   a. Bargaining unit?
   b. Department?
3. Have average weekly hours been compared with:
   a. Community?
   b. Competitive industry?
   c Specific companies?
   d. All manufacturing?
4. Are the number of hours in a regularly scheduled workday and week indicated?
5. Have average hours worked daily been tabulated?
6. Shift data:
   a. Starting and quitting times of all shifts?
   b. Starting and quitting times of odd hour shifts listed separately?
   c. Listing of rotating shifts for maintenance occupations?
   d. Number of employees per shift by:
      Occupation?
      Seniority?
7. Has overtime worked over the past year been analyzed by:
   a. Department?
   b. Classification?
   c. Distribution among employees?
   d. Refusal of overtime?

C. *Employees*

Statistical data concerning employees is of utmost necessity at the bargaining table. Again, the data must be accurate and complete.

1. Has the information indicating the number of employees in the bargaining unit been tabulated as follows:
   a. Total in bargaining unit?
   b. Total in each department?
      By shift?
      By length of service?
      By age distribution?
      By regular or temporary?

2. Have future manpower requirements, by classification, been estimated?
3. Has the number laid off by date, department and classification been tabulated?
4. Is the number recalled also listed by date, department and classification?
5. Does the turnover data list
   a. Hires?
   b. Discharges, by reason?
   c. Quits, by reason?
6. Total number of promotions, demotions and transfers?
7. Number of employees on leave:
   a. Personal?
   b. By department?
   c. By special groups?
   d. By union office? (stewards, committeemen, etc.)
8. Number of union officials (in each union in plant):
   a. Total?
   b. By union office?
9. Wages paid for time spent on union activity:
   a. Total?
   b. By department?
   c. By union office?

D. *Fringes*

Fringes have become as important as wages in negotiations. As much data as possible should be gathered, not only with respect to the fringes which the company pays but all other fringes paid in the area and in competitive industry. In general, most fringes can be classified as premium payments for time worked, such as overtime premiums. However, fringes may also include payments for time off, payments for health and security benefits, payments for employee services, and the cost of miscellaneous items such as recognition of length of service, contest and suggestion awards, educational payments, Christmas bonuses, parking lots, social meetings, etc.

Computing fringes in terms of total cost and in cents per hour actually worked is an extremely effective way to compare over-all practices—since the details may vary from plant to plant. But in collecting this information, it is vital that costs be computed in all companies on the same basis—otherwise the comparisons become invalid and hazardous.

1. For easy handling, have separate sheets been prepared describing the position the company will take with regard to:
   a. Premium pay?
   b. Shift differentials?
   c. Rest periods?
   d. Holidays?
   e. Regular vacations?
   f. Extended vacations?
   g. Sick leave?
   h. Military leave pay?
   i. Jury duty?
   j. Group insurance plans?
   k. Pension plans?
   l. Termination pay?
   m. Supplemental unemployment benefits?
   n. Others?
2. Have cost surveys been made indicating:*
   a. Cents per hour per employee per benefit?
   b. Total costs?
   c. Average cost per employee per year?
   d. Percentage of payroll?
   e. Percentage of total labor costs?
3. Have comparisons been made with:
   a. Community?
   b. Competitive industry?
   c. Specific companies' practices?
4. Has the cost of union demands been computed?
5. Has the cost (or savings) of company proposals been computed?

E. *Financial and Productivity Data*

Whenever management pleads inability to pay, this will mean exposure of its books on wages, labor costs and perhaps profits. If an employer says during the course of negotiations, "Competitively, I cannot stay in business," this statement could mean that the books and other pertinent data should be opened. It has been held proper, however, for an employer to argue that "We need more money for our shareholders and for the company." In such a case, the employer would not be required to open the books, at least on the basis of Board decisions thus far.

If increased productivity is used as the basis for the union's wage demands, information must be available to support the company's posi-

*See Appendix A "Cost of Fringes" (page 51)

tion. In any event, the company must be prepared to support its position by presenting factual information.

1. Are production per man-hour figures available:
   a. By product?
   b. By department?
   c. By plant totals?
2. Have labor costs and selling price per unit of production been indicated?
3. Does data include past trends in costs and selling prices per unit?
4. Have future projections of unit costs and selling prices been charted?
5. Are the costs of additions to or improvements in plant and equipment available?
6. Are the current and projected sales dollars broken down to reflect:
   a. Labor, direct and indirect?
   b. Materials?
   c. Overhead?
   d. Distribution expenses?
   e. Taxes?
   f. Profits?
   g. Research and new product development?
7. Is the percentage of labor cost to total cost known?
8. Is profit and loss indicated both before and after taxes?

F. *Other Contracts*

It is vital for the company to secure copies of current union agreements signed by typical and comparable companies in the community and the industry.

G. *Miscellaneous Information*

Additional information of importance to the negotiator should be available for quick reference if necessary.

1. Texts and bulletins of:
   a. Labor Management Relations Act
   b. Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act)
   c. Fair Labor Standards Act
   d. Walsh-Healey Public Contracts Act
   e. Selective Service Act
   f. Welfare and Pension Plans Disclosure Act
   g. Civil Rights Act
   h. Equal Pay Act

i. President's Executive Order No. 10925 and subsequent Orders
j. Pertinent state laws

2. Costs of union activities—strikes, slowdowns, grievances, etc.
3. Seniority lists
4. Reports to stockholders and employees
5. Copies of the company's pension, group insurance and other employee benefit programs
6. Copies of the company's personnel practices and procedures
7. Employee handbook
8. Description of employee services—medical, safety, credit union, recreational programs, communications, cafeteria, etc.
9. Union constitution and by-laws

VI. FORMULATION OF COMPANY PROPOSALS AND PROTECTION OF THE MANAGEMENT FUNCTION

A positive approach to collective bargaining requires management to take an affirmative attitude with realistic proposals of its own, dealing in facts —taking the initiative—paving the way for a sound contractual agreement. Protection of management's authority to operate all facets of its business efficiently is sometimes safeguarded through a carefully-worded management rights clause—sometimes through other devices. In any event, the contract must make it crystal clear that management retains the authority and flexibility necessary to effective direction of the enterprise.

1. More specifically, does the contract make clear the company's right to:
   a. Determine the size and composition of the work force?
   b. Control the type of product?
   c. Control the volume of production and the scheduling of operations?
   d. Designate the place of manufacture?
   e. Sub-contract?
   f. Maintain discipline in the plant?
   g. Effect transfers, promotions and demotions necessary to efficient operation?
   h. Limit union activity on company property and company time?
   i. Eliminate interruptions to work?
   j. Determine the number of employees on a job or machine?
   k. Determine job content?
   l. Set level or quality of work performance?
   m. Select and assign new employees and new supervisors, etc.
2. When formulating company proposals, have other contracts signed by the union in the industry and the area been examined?

3. Have company proposals been discussed with:
   a. Top executives, including the Board of Directors?
   b. Supervisors and foremen?
4. Can the company's position stand the scrutiny of public opinion?

VII. THE COMPANY NEGOTIATING TEAM

A company which recognizes the importance of the issues involved in collective bargaining will select a chief negotiator who has prestige in the eyes of both company and union representatives. He should be a man who carries enough weight within the company organization to have frank discussions with the top executive or Board of Directors, if need be, concerning any company position which he believes to be untenable, undesirable, or contrary to the company's best interests.

Normally, the management negotiator should not bargain alone. Like the union spokesman, he should be supported by a negotiating team. The use of a committee permits representatives of various departments to participate in the negotiations. They can also assist the chief negotiator in areas with which he is not completely familiar.

1. Has the choice of the individual responsible for negotiating a contract been carefully weighed on the basis of his:
   a. Availability

      If he is an outside man, has he arranged his other interests so full time can be devoted to the company's negotiations?

      If he is a company executive, have his affairs been so arranged that interruptions due to other responsibilities are held to the barest minimum?

   b. Experience and background

      Does he have a practical working knowledge of labor relations and applicable federal and state laws?

      Is he completely familiar with the company's plant organization, operations, employee policies and practices, actual plant conditions?

      Is he completely familiar with the provisions of the present labor agreement and the history of its development?
2. Has full consideration been given to the contribution which might be made by:
   a. Outside specialists (including legal counsel, labor relations consultants, etc.)?
   b. Employers' associations (local, state and trade—such as those affiliated with the National Industrial Council)?

c. A management negotiating committee?
d. Local plant people (in case you are having your home office conduct negotiations in your local plants)?
e. The Federal Mediation & Conciliation Service? Employers should understand that certain states provide state mediators. In a majority of cases, the employer has a choice of seeking assistance from either federal or state mediators. Mediators can only assist the parties in attempting to arrive at a settlement and in no case do they have power to recommend or force a settlement on the parties.

VIII. VISUAL AIDS

There is a growing tendency to use charts in presenting negotiating data in the form of bar, line and pie graphs. Carefully planned visual exhibits are often more effective in explaining the reasons for management's position than the best oral explanations.

1. Has management data been completed in the most simple and usable form by the use of:
   a. Charts?
   b. Graphs?
   c. Statistics?
   d. Loose leaf, indexed books?
2. Is each chart simple and uncomplicated?
3. Does each chart or graph present only one fact or trend?
4. Are the charts based on unimpeachable data?
5. Have charts been prepared showing comparisons between the company and the prevailing levels in the community, in the industry, and with individual "pattern-makers" for:
   a. Average straight-time earnings?
   b. Average weekly earnings?
   c. Take-home pay?
   d. General wage increases granted by the company over a period of years and those granted by companies in the community and industry?
6. Have wages and wage increases and changes in production per man-hour for both current and past years been charted?
7. Has the trend of unit labor costs over the years been illustrated in comparison with the industry or with other companies' figures?
8. Have charts been prepared comparing the wage increases granted by the company as compared with increases in the cost of living index?
9. Are charts and visual aids attractively prepared and indexed for efficient presentation?

IX. FINAL PREPARATIONS

As the date for reopening approaches, the last stages of preparation call for organizing all the data, establishment of the company's final position, and other important considerations.

1. Has the company been properly notified by the union sixty days prior to contract termination, as required by Taft-Hartley?
2. Has it been decided which facts will be presented and in what order?
3. Has the company's "final" position been determined?
4. Has consideration been given to the advantages of holding negotiations in a neutral location as against holding meetings on company property?
5. Have company officials decided whether union negotiations should be paid for by the company?
6. Does management have a copy of the union's specific demands?
7. Are records to be kept of the progress of negotiations?
8. Has a final meeting with the company negotiating committee been called to:
   a. Clearly set forth the area of authority of the chief negotiator?
   b. Arrange for him to have ready access to a higher authority if the need arises?
   c. Re-emphasize that the chief negotiator will be the only spokesman authorized to make commitments?
   d. Review company presentation procedure?
   e. Decide whether some of the committee will rotate?
   f. Clarify any doubt and answer any questions?
9. Are the above considerations based on a positive and detailed bargaining program aimed at definite labor relations objectives?

If all of the above has been completed (or as much as pertains to the company's business and industry), you should now be ready to negotiate.

X. SOME BASIC PRINCIPLES AND PROCEDURES OF BARGAINING TECHNIQUE

The following comments are directed primarily to the person who is the principal spokesman for the management group. These comments also contemplate the smaller company with a generally informal bargaining relationship, as contrasted with the more complex and sophisticated bargaining sessions of national scope.

Trial lawyers know that preparation is 99 percent of trial technique. It has been said that: "A well prepared case tries itself." The same principle applies to negotiating technique, and the best technique has little value without careful preparation.

As the reader has already noted, the bulk of this guidebook relates to preparation. The negotiator who has been supplied with the necessary and relevant preparatory data has a personal obligation to assimilate and digest this information so that he has it well in mind and need not constantly shuffle papers and refer to memoranda, charts, surveys, etc.

Stated simply, a triple-time-for-Sunday-work proposal would appear to cost nothing in the settlement package of a company which has never operated on Sunday in the last eight years. However, if planned sales and capacity factors indicate such a probability five years from now, this throws completely different light upon the proposal. Unfortunately, important company prerogatives have been forfeited through negotiations, as a direct result of the lack of long-range objectives.

Too much emphasis has been placed on the over-simplified computations of the economic cost of the single contract term being negotiated. Concessions may be excusable when made from a realistic appraisal of the union's economic bargaining power vis-a-vis the company's. Concessions made without consideration of long-range objectives may never be excused and, even more important, may never be regained.

A. *Some Basic Principles*

1. *The Negotiator.* The first rule the successful negotiator must follow is to be himself—that is, to use an approach which is consistent with his own personality, experience and background. Some highly successful negotiators are "table-thumping bulls"; other highly successful negotiators are quiet and reserved. Each is effective if he uses his own personality to advantage. But no negotiator should try to copy the technique that he has observed in another whose personality is completely different. This is an error most frequently made.

It is axiomatic that the negotiator must be ethical. He is dealing with a long-range, highly personal relationship which has all the daily frictions of the typical marriage but without much likelihood of divorce. Thus, a temporary gain made through deception, craft or distortion of facts will surely return in future years to haunt the operating management (and, frequently, after the negotiator has left the scene). A negotiator dedicated to personal ethics will find, with rare exception, that he may demand and will receive the same from the other side. He may suffer a short-range loss in a given case, but by virtue of the long-range relationship these matters have a tendency ultimately to balance out.

The negotiator should also strive for a positive attitude. No matter how ominous the union's economic power and bargaining position may be, the negotiator will do a better job for his management if he

assumes a posture of bargaining *for* a contract as he wants it, as opposed to merely bargaining *against* what the union is attempting to achieve. Negative negotiating merely puts the company in a defensive or holding position, forfeiting the essential element of *control* which is so necessary for successful negotiations.

2. *The Management Committee.* It is fundamental that only the principal negotiator will speak for the management group, unless it is previously understood that on specific points others of the management team will interject their observations or statements. Another exception occurs when the negotiator, during a session, requests one of his team to answer a certain question or to explain a certain practice or set of facts. This does not mean that the other members of the management committee function as mere window-dressing or casual observers. Each member should be selected with a specific purpose and role in mind, and he should perform it. The most frequent failure in this connection is for the person assigned the role of note-taking to become engrossed in the conversation and lay down his pencil.
   Each member of the committee should stay alert and watch and listen closely. Avoid whispering into the negotiator's ear. The time for this type of communication is during the breaks and caucuses. If it can't wait, use the written note procedure.

3. *The Union Committee.* Prior to negotiations, the company negotiator should be furnished with a biographical sketch of each committeeman. This sketch should include his work history and grievance history. Committeemen frequently bargain from a position of self-interest. Although the negotiator may be talking to the union's official spokesman, his real objective, with rare exception, is to *communicate* with the committee.
   In effect, the company's spokesman is building and selling a package which the committee in turn must sell to the rank-and-file. The negotiator must visualize the committeeman standing before the rank-and-file and explaining why the committee agreed to withdraw a certain proposal or to accept a certain counter proposal. At this point, the committeeman is in the same position as the company negotiator was earlier—he must sell the logic or philosophy involved.
   Although it is normally assumed that a calm, unemotional atmosphere is desired during the cross-table communication, the negotiator should not be a slave to such doctrine. As mentioned previously, he should follow his own normal personality and not be afraid of showing emotion if the *timing* appears proper. At the proper time, a certain amount of emotion and "brinkmanship" can be highly valuable. However, the

intelligent use and control of emotion should not be at the expense of good manners and courtesy.

In summary, the negotiator is seeking a communications rapport with the union committee through which he can convey management's views and positions *effectively*. It is one thing to state excellent points with a flourish of oratory. But the question is whether the other person hears, understands, and is persuaded. Even if he does not *agree* with your view, you want to make certain he understands thoroughly *why* you hold such view.

B. *Procedural Guide Lines*

Possibly the most important rule of procedure is for the negotiator not to permit the negotiation process to become stifled by procedural mechanics. Procedure is no more than an aid to decorum and orderly progress. It also serves as a check against oversight and unnecessary haste. The following procedural comments are made within the limitations of the above cautions.

1. *The Opening Sessions*. Never underestimate the importance of the common courtesies of introductions and preliminary chit-chat. This provides the negotiator with valuable information in formulating his approach to setting the emotional tone and the manner in which he plans to control it. At the outset, it is customary to agree upon such matters as session schedules and the extent to which a record is made. (If there is any dispute on this point, it is recommended that counsel be consulted inasmuch as there are certain NLRB rulings on the subject of verbatim transcripts.)

After these preliminaries, the normal first step is a review of the proposals in sequence which have been submitted by the union. Normally, the negotiator avoids indicating the company's position on any of such items. (With rare exceptions, the union usually has a pretty good idea anyway.) At this stage, the negotiator's purpose is to explore in detail any *problems* which precipitated the proposal and the *intent and scope of the language* of the proposal.

As to the alleged *problem*, it is frequently found that such problem can be resolved to the complete satisfaction of the rank-and-file but without the necessity of accepting the proposal in whole or in part. As to the *meaning* of the language itself, the negotiator through his questioning establishes the information base from which to draft counter language. He also establishes a record of intent which will serve as a valuable aid to interpretation and application in future grievances and/or arbitration.

On proposals where the company is adamantly opposed to any concessions, watered-down or otherwise, there is a popular feeling that the negotiator should not even probe the area with questions lest he dignify the proposal by indicating the company concern. It may be that this is an erroneous attitude. Few union representatives today are that unsophisticated. Moreover, it is too difficult for the negotiator to know for certain whether he will be able to hold his position adamantly throughout negotiations. All too many clauses agreed to in final contract settlement following a strike are devoid of bargaining history. Although arbitrators may resolve ambiguous language, it is better that the company guide its own destiny across the bargaining table. A word of caution about the questioning technique. Nothing will sour a committee more quickly than a routine and boring "who-what-when-where-and why" interrogation on proposal after proposal. Similarly, if some proposals are ludicrous on their face, the negotiator should refrain from over-acting when he questions. Somewhere in the background of the proposals there was probably some very serious intent. The negotiator's purpose is not to display his superior wit or to engage in ridicule.

2. *Intermediate Sessions*. When the company submits its response to each union proposal, it should also submit its own company-initiated proposals (unless they were already submitted prior to negotiations). The company should explain and clarify its proposals. It has frequently been found that to the extent possible, a company-initiated proposal should not be submitted as a separate item if it can be incorporated as part of a counter-proposal to a union-initiated proposal.

Another caution about company proposals relates to whether the company should initiate any proposal in areas where there are disputes over the meaning of existing language. If the company is not prepared to take an adamant stand in support of its proposal, it may forfeit substantial ground in future interpretation of the existing language.

The process of the company's first response may be in writing in terms of specific language. Or it may be given orally in terms of principle as to areas in which the company is willing to move. In the latter case, the company announces that if agreement is reached in principle, the company will then submit specific counter language in accordance with its oral statements. Most frequently, the company's first response is a combination—both oral and written.

The most marked distinction between amateur and professional negotiators is in the matter of timing. The professional may have the urge to make an observation or a proposal, but he controls himself and

selects the most appropriate and effective time. For example, occasionally committees have a "loudmouth." The amateur jumps on him at the first opportunity. The professional, knowing that others on the union committee will also grow tired of him, waits until this point is reached. His remarks are then more effective and they do not engender sympathy for the offender.

At some point in the sessions, the number of issues should narrow to the point where the negotiator feels the timing is right to "wrap it up." The final stages of the negotiating sessions may occur on the first day of bargaining or perhaps not until later at the office of the Federal Mediation and Conciliation Service. Thus, patience is an essential ingredient for the negotiator, and he must also carefully encourage patience on the part of the balance of the committee.

Much has been written about the extent to which the company negotiator should hold back his economic proposals, particularly any across-the-board wage increase, until the balance of the "non-economic" items have been resolved. This is a matter of timing.

Without taking sides in this debate, careful analysis should be made whether there are in fact such things as "non-economic" items. As discussed earlier, from a long-range view a particular clause which puts no money into the employee's pocket may, nevertheless, seriously inhibit the company's profitability in future years. Can such a clause in truth be called non-economic?

Moreover, it is generally more difficult to get the rank-and-file into a strike mood if, at the proper time in negotiations, an economic package is on the table which indicates *progress* toward settlement. Once the rank-and-file begins to convince itself there will be no call for economic action, there is likely to be apathy about a work stoppage. Thus, very careful consideration must be given on a session-by-session basis as to when the timing is right for a change in the so-called "economic package."

3. *Final Session.* It is rarely known until after the fact that a particular session was the "final" session. However, when it does become apparent that the parties have arrived at this stage of the process, it becomes mandatory that the negotiator not permit himself the luxury of an "it's all settled" emotional letdown. There remain essential functions to perform.

   The negotiator should have reviewed the language, intent and scope of each of his proposals, and he should have carefully checked each proposal against the balance of existing provisions in the contract to insure that no new problems or "sleepers" have been created. He should

arrange for a statement in full session of both committees (and before the mediator, if applicable) in which the settlement is reviewed and the mechanics of ratification and notice to the company are clarified. The details of whether there will be retroactivity, whether such is conditioned upon ratification by a certain date, etc., should be spelled out with the utmost clarity.

Finally, assurances should be obtained from the union committee and union officials that they will not only recommend the package but will exert their best efforts toward obtaining ratification. When a memorandum of settlement is employed, which is desirable because a record is established, it should contain a provision to that effect.

XI. ANALYSIS FOR CREATIVE BARGAINING

Success in bargaining requires:

—Thoughtful preparation for bargaining

—Sound contract proposals

—A positive approach to collective bargaining involving good faith and a desire to reach an agreement.

Unions, in the collective bargaining process, usually want to protect their strength as organizations. They are interested in more members, union security, strong treasuries, and in many cases want to exercise control over jobs. Often they would like to limit management's power in hiring, firing, promoting, demoting, disciplining, etc.

Management, however, has somewhat of a different and more difficult problem. Its aims in collective bargaining are partly defensive. There are things to be avoided, as well as certain gains to be achieved.

Since there are a wide variety of management and union approaches to bargaining, no rigid formula for negotiations can be set forth. It is possible, however, to explore fundamental questions that arise during the course of negotiations relating to major clauses in the agreement, whether the company is negotiating a union agreement for the first time or renegotiating an existing agreement.

A. *Preamble*

Some authorities prefer that the language covering the Preamble simply include the date and description of the parties. Check the following:

1. Is the agreement between the international union and the company, or the local union and the company?
2. Shall you identify the parties to the agreement—international, local, officers, in order to fix responsibility for carrying out the terms of the agreement?

It is suggested that "harmony" clauses be avoided (i.e., such phrases as "settle all differences without disturbing the peace," "establish mutual and economic relationship," etc.).

B. *Recognition*

The Recognition Clause follows the Preamble and it recognizes the exclusive bargaining rights of the union. It also defines the membership of the bargaining unit, answering such questions as:

1. Shall a general statement of coverage by plant, department or craft be made, or shall a complete list of jobs be included in the bargaining unit?
2. Shall reference be made to the National Labor Relations Board certification, if applicable, under which the union obtained its legal recognition?

C. *Union Security*

There are several forms of union security, as defined in Appendix B. The Taft-Hartley Act bans closed shop contracts between unions and companies engaged in interstate commerce, but since 1951 has contained no other limitation on the negotiation of union security clauses. The legality of other types of union security clauses varies from state to state.

"Right-to-work" laws prohibit union membership requirement as a condition of employment and are in effect in more than a third of the states. If you operate in a "right-to-work" state, the employee has the freedom to join or not to join a union, and the law prohibits an agreement requiring union membership as a condition of employment. However, other forms of union security, such as an agency shop may be legal.

Open Shop Clause

1. Shall the union be permitted to conduct its activities or business on the company premises during working hours?
2. Shall the union activities or business permitted be defined?
3. Shall provision be made that these activities must not interfere with efficient plant operations or the work of employees on the job?
4. What penalty shall be provided in the event there is a violation of this clause?
   a. Discipline of the violators, or a withdrawal of the privilege?
5. Shall the clause specifically prohibit the union and its members from using coercion or force in order to get non-members to join? (The laws prohibit such activities.)

Union Shop Clause

1. Does the clause provide for new employees to be given at least 30 days after start of employment before joining the union?
2. If you operate in more than one location, does the clause limit itself to the plant involved?
3. Have you defined the term "must remain a member in good standing" to mean the payment of union dues and initiation fees only?

Maintenance of Membership Clause

1. Shall you include an escape period so that members may withdraw from the union at the end of the contract term?
2. Shall provision be made as to what method of notification of withdrawal is to be used?

Collection of Union Dues—Some forms of union security include a checkoff provision. A checkoff clause is limited to the payroll deduction for union dues and initiation fees as authorized in writing by the employee.

1. Does the form used to authorize deduction for dues conform with the requirements of the law?
2. Shall the union furnish the company with a list of employees for whom it must make deductions?
3. How frequently shall the list be furnished, and how are additions to the list to be handled?
4. Shall a specific amount of money be established as the deduction? Shall a provision be included which states the maximum amount to be checked off per employee?
5. Shall the company be required to furnish a list of employees and the amounts deducted to the union?
6. Shall an indemnity provision be negotiated to protect the company against unwarranted claims and suits?
7. Shall the checkoff be revocable (i.e., withdrawn at any time the employee requests same), or if irrevocable, shall the company allow automatic renewal of the authorization? Legally, a checkoff authorization cannot be irrevocable for more than one year or the termination of the agreement, whichever occurs sooner.
8. Shall the cost of administering the checkoff be borne by the company, by the union, or by both parties?
9. In case there is no checkoff provision in the agreement, how shall the union be required to make its collections of money due from its members?

a. During working hours? — after working hours? — during rest periods? — meal periods? — in the plant? — outside the plant? — or should the company provide facilities, such as a booth, for this purpose?

D. *Management Rights*

There are certain exclusive rights that management possesses as owner of the business which do not flow from a collective bargaining relationship. Management is responsible for organizing, arranging and directing the various components of the business in order to run the enterprise efficiently and profitably. In the absence of collective bargaining agreements, management is free to direct its operation at its own discretion within the limitations of the law. Management rights, as discussed in this guidebook, cover those rights affecting the employer-employee relationship through the collective bargaining process.

Over the years, management has taken two different approaches to the issue of protecting its "rights." The first approach is to avoid any management rights clause in a contract on the theory that certain rights are inherent in management. Proponents of this approach contend that management retains all powers, rights and privileges not specifically given away or restricted by the labor agreement.

The second approach emphasizes the multiple obligations of management, namely, to its shareholders, to its customers and to its employees. In fulfilling its obligation to employees represented by a union, management should include a management rights clause in the labor agreement in order to establish in clear terms the scope of management's action which is to remain free despite its contractual obligations. Proponents of the second approach differ between those who suggest that a broader statement of managerial rights be included in the labor agreement and those who advocate a detailed statement of management rights. Careful consideration should be given to this subject before deciding upon a suitable course of action. If assistance is required, advice should be obtained from legal counsel or other competent labor relations sources.

In the final analysis, business interests can be protected more fully by exploring some of the following questions:

1. Shall the company include a provision enabling it to protect its rights to introduce new and improved methods?
2. Shall it have the right to determine the size of the work force, the assignment or transfer of work, the scheduling of operations, determination of job content, the right to require employees to work a reasonable amount of overtime, etc.?

Management cannot blame labor unions alone for the loss of certain management rights. Many unions appreciate the fact that the welfare of the union and employees alike is best served if management retains those rights which are essential to the economic well-being of the company. If a specific list of rights is included in the agreement, the company should also decide whether a comprehensive clause covering rights not specified in the agreement is desirable.

E. *Hours of Work and Overtime*

1. Is the work day and the work week defined? If so, what constitutes a work day? What constitutes a work week? When does it begin? When does it end?
2. Are the actual working hours specified, or is this left to management's decision?
3. Are there restrictions on changing established work schedules, individual schedules, department schedules, or crew schedules?
4. Is there a guarantee of minimum number of hours per day or per week? If so, how many?
5. If an employee is unable to work, is there a clear understanding as to what he should do in order to be excused from work?
   a. Should he call the plant and contact someone in authority and obtain an excuse?
   b. What proof to substantiate illness is required?
   c. What happens if a man fails to report and does not notify the company?

Overtime

1. What shall be considered as overtime?
   a. Time worked outside the regularly scheduled hours, daily, weekly?
   b. Time worked on Saturdays, Sundays or 6th and 7th day of the work-week schedule?
2. How shall overtime be calculated?
   a. At time and one-half? Double time?
3. Shall the company pay time and one-half for Saturday as such, and double time for Sunday as such?
4. Is overtime computed on a shift basis, or a calendar-day basis?
5. Shall provision be made for the distribution of overtime?
   a. Defined "equitably" and "equally as practical"? by classification? by department?
   b. Is it necessary to cross shifts and/or departments in order to equalize overtime?

c. Is overtime work given to senior employees only, or should overtime distribution be left to the company?

6. With respect to equalization of overtime:
   a. What provision covers the matter of errors in overtime distribution?
   b. Is it necessary to reimburse the employee for not working in the event an error in overtime assignment is made by management?
   c. Does the agreement permit management, where errors are made, to provide makeup work in lieu of pay for not working?
7. Shall employees be required to work overtime?
   a. What discipline and action should be taken if employees refuse to work overtime?
8. Is advance notice of overtime work required? If so, how much?
9. If overtime is worked, shall provision be made for meal period?
   a. If so, is it necessary to work a specified number of hours before the meal period is taken?
   b. What provision, if any, should be made for pay in lieu of a meal period?
10. Overtime provisions should contain a clause eliminating the necessity of pyramiding overtime pay.

F. *Holidays*

1. How many holidays shall be observed, and are they identified?
2. What provision is made for a holiday which occurs during an employee's vacation?
3. How much shall employees be paid for holidays worked, as well as for holidays not worked?
4. Should a requirement that the employee work the day before and the day after a holiday be contained in the agreement?
5. What happens if a holiday falls on a Saturday? Sunday?
6. Is there a requirement that an employee must work, if requested, on a paid holiday or forfeit holiday pay?
7. Does a paid holiday apply to all employees?
   a. Full time, permanent employees? Seasonal and temporary employees?
8. If an employee is on a leave of absence, will he receive holiday pay?
9. What limitations should be placed on holiday pay for employees who are not actively at work at the time?
10. What premiums should be included in computing holiday pay?
    a. Shift differential or other premiums?

G. *Grievance Procedure*

Make sure that the grievance procedure is workable and that a grievance is defined. The procedure should be kept simple.

1. How many steps should be followed in the grievance procedure? Who are the parties involved?
2. How much time is allowed for the processing of grievances?
3. Are there time limits between the steps involved in the procedure?
4. Are formal grievances limited to alleged violations of the specific terms of the contract?
5. Shall a grievance be considered settled if not appealed to the higher step or level within the established time limit?
6. Shall grievances be presented in written form? If so, how many copies should be made? At what step of the grievance procedure is the grievance reduced to writing? What information should appear on the grievance form? For example: name and signature of aggrieved employee, department, nature of grievance, disposition.
7. What is the composition of the grievance committee, and how many members should be on the committee?
8. Shall union representatives have the right to investigate grievances on company time?
9. Is it made clear that arbitration is the terminal point of the grievance procedure? If it is the first union contract, are all grievances prior to the signing of the contract considered withdrawn?
10. Shall union representatives be paid for the time spent in handling grievances? Is there a limitation on the number of hours involved in processing grievances?
11. Should the company pay grievance committeemen straight time wages only, or is overtime involved?
12. Should the clause be limited to provide for payment to union representatives for grievance meetings called by the company, or for handling all grievances during working hours?
13. Should provision be made preventing union committeemen or stewards from spending excessive time on grievances or interfering with production in the processing of grievances?
14. Should the union steward or grievanceman obtain permission from his supervisor before leaving his work area to investigate a grievance?

Arbitration

Arbitration is the terminal point of the grievance procedure and should be limited to interpretation and specific application of the agreement.

Often it is included in the grievance section of the agreement. It is important that an arbitration clause specify the arbitrator's authority. Most grievance arbitration in this country is handled by a single arbitrator. However, in some relationships, the use of tripartite boards of arbitration is desirable.

1. Does your agreement specifically preclude the submission of multiple grievances to arbitration?
2. Does your contract clause prevent the arbitrator's decision from adding to, subtracting from, or amending the agreement between the parties?
3. Does the clause provide for a time limit for rendering an award, especially in cases where back pay is involved?
4. How is the arbitrator selected? Jointly, from an impartial panel furnished by the U.S. Federal Mediation and Conciliation Service, the American Arbitration Association?
5. How is the cost of arbitration divided? Shared equally? Loser pays?
6. Is the arbitrator's authority limited to rendering a decision on the grievance issue which is final and binding on both parties?
7. Is a transcript necessary during the arbitration proceeding? If so, is the cost shared, or is it paid by the party ordering same?
8. Shall the parties set forth the issues to be arbitrated in advance of the hearing, or shall the grievance as submitted determine the issue to be arbitrated?
   a. Failing to agree upon an issue, should the arbitrator, upon hearing statements from both sides, frame the issue?
9. Should the parties agree to have the case published if requested by the arbitrator?

H. *Strikes and Lockouts*

A sound no-strike clause helps to develop mutual and responsible relationships between the employer and the union.

1. Shall the company have the right to discipline employees who violate the no-strike clause?
2. Does the clause require union officers, committeemen, and shop stewards to take affirmative action in order to prevent employees from continuing participation in a wildcat strike? If so, are there specified time limits for the matter to be brought to a conclusion?
3. Does the clause prevent work stoppages, slowdowns in production or other interference with operations?
4. Does the company agree that it will not lock out employees during the term of the agreement?

I. *Seniority*

The seniority provisions in any agreement are important. Improperly written seniority clauses can place severe restrictions on company operations and can prevent management from maintaining an efficient work force. There are several types of seniority clauses—plant-wide, departmental, classification or occupation. In some companies a combination of these types of seniority plans is in effect.

1. Does the agreement define seniority?
2. Is there a distinction between the application of seniority during layoffs and when promotions occur?
3. How shall seniority be used?
   a. Layoffs, rehiring, transfers, demotions, choice of shifts, job selection, vacation scheduling?
4. How is seniority distinguished from ability?
5. Is superseniority permitted? That is, are the officers of the union covered so that in the event of layoff they are not affected?
6. Does seniority apply retroactively after an employee satisfactorily completes his probationary period?
7. If a layoff occurs, does the clause require advance notice of the layoff?
8. If an unforeseen emergency develops, or in the event of a short-term dislocation, can layoffs be accomplished without regard to seniority for a specified period?
9. Can an employee about to be laid off utilize his seniority to obtain a promotional opportunity?
10. How long should employees who are laid off retain seniority (i.e., recall rights)?
11. Will excuses be accepted if justified when a recalled employee reports late for work?
12. What type of notice should be used when recalling a laid-off employee?
13. Should employees be allowed to accumulate seniority during periods when they are not working?
    a. Layoff periods? Seasonal fluctuations? During periods of approved leave of absence?
14. How is seniority lost?
    a. Discharge? Resignation? Layoffs exceeding a specified period? Failure to report for work without notification to the company?
15. Should skilled employees receive special seniority rights over other employees?

16. If an employee is upgraded to a salaried position, how long is his seniority protected?
17. Should temporary or seasonal employees be entitled to seniority?
18. Shall provisions be made to keep up-to-date seniority lists?
    a. By the company?
    b. Shall they be posted?
    c. Sent to the union?
    d. How frequently should these lists be revised?
19. In promotions, is seniority the only factor for determining a promotion?
20. Is the term "promotion" defined to mean movement to a higher paying job?
21. Are promotional opportunities subject to bidding requirements? If so, how long must the job be posted?
22. Are there other factors to be considered, such as experience, training, or physical fitness?
23. Does the company have the right to test employees seeking promotional opportunities?
24. Does the contract distinguish between a permanent and temporary vacancy?
25. If a temporary vacancy becomes permanent, is there a clause covering the condition?
26. If ability is a determining factor in making a job award, is ability defined to include a reasonable amount of training to perform the job?
27. Is a trial period allowed for the purpose of determining the ability factor?
28. How is an employee who demonstrates lack of ability removed from the job—i.e., may he return to his old job without loss of seniority, or must he accept whatever jobs are available?
29. If jobs cannot be filled with members of the bargaining unit, does management reserve the right to hire from the outside in order to fill the vacancy?

J. *Vacations*

The vacation provision contained in an agreement should define eligibility requirements and establish a basis of computation.

1. Is vacation eligibility defined as continuous service or on the basis of accredited service? (Accredited service means that credit will be

allowed for working a certain number of hours in a week or month, after which full credit may be given toward vacation benefits.)

2. How much vacation shall be allowed?
   a. Number of days?
   b. Is it a pro-rated amount?
   c. Is there an eligibility requirement before employees can obtain the initial vacation?
3. How is vacation pay determined?
   a. Specific number of hours at straight time pay?
   b. Average hourly rate for a certain period?
   c. Percentage of previous year's earnings for a stated period?
4. Shall vacations be based upon the number of hours worked in the week?
5. Shall provision be made for payment of employees in lieu of receiving vacations? Should employees actually be required to take time off for vacations?
6. What period shall be used for establishing the taking of vacations?
   a. The entire year? Specified months? Summer months? Split vacations?
7. Shall the company provide a shutdown of operations during the vacation period?
8. If employees have the right to select a vacation period, does management reserve the right to change the schedule because of production requirements?
9. Does the vacation period count as time worked?
10. What provision is made in the event an employee quits the company or if he is discharged?
11. Is provision made for allowing employees to be considered for new jobs while they are on vacation?
12. Can the company limit the number of employees on vacation at the same time?
13. If an employee receives more than one week of vacation, must the employee take all the weeks at one time or can it be divided?

K. *Jury Duty*

Many companies agree that they will make up the difference in pay only between the employee's regular pay and the money he receives for serving as a juror.

1. Should provision be made that all fees paid for service on a jury be verified by a court official?
2. If fees for mileage are allowed, shall this be considered as part of jury pay?

L. *Union Bulletin Boards*

1. Shall the union be permitted to post notices on the company bulletin board?
2. Shall such union notices be restricted to
   a. Social affairs? Union elections? Union meetings? Joint company-union information?
3. Shall the company require a copy of what is to be posted in advance of posting?
4. How many bulletin boards should be designated for union use?
5. Should the posting of propaganda or political statements be prohibited?

M. *Leave of Absence*

Generally, leaves of absence for personal reasons are limited to a certain number of days. However, union officers and officials are often granted leaves in order to attend union conventions.

1. Does management have the right to determine whether or not a personal leave should be granted?
2. Does the leave of absence request have to be in writing?
3. Is there a limitation on the number of days allowed whenever a personal leave is granted?
4. Shall the employee be considered as having quit if he fails to report for work at the end of an approved leave of absence?
5. If the employee obtains employment elsewhere while on leave, is he automatically terminated?
6. What procedure is to be followed in the event an employee wishes to return early?
7. Is an employee's coverage under the company's benefit programs continued while the employee is on leave? If so, on what basis?

N. *Death in Family*

Pay for absence due to death in the family is incorporated in an increasing number of agreements.

1. How much time off with pay is allowed in the event of a death in the family?
2. Are the days calendar days or working days?
3. What is meant by "death in the immediate family?" Wife, husband, children, parents, brothers, sisters, others?
4. Should coverage of the clause be limited to employees who actually participate in arrangements or attend the funeral?

5. Shall the employee be required to submit evidence of the death in the family? If so, what form of evidence is required?
6. Are probationary employees allowed time off with pay in the event death occurs in their family?
7. Does the agreement specify when time off with pay may be taken (i.e., through date of interment, within specified period following death, etc.)

O. *Wages*

1. Does your clause permit management to establish new job classifications?
2. Does management reserve the right to combine or eliminate jobs?
3. In the event there is a dispute over a new job because of a technological change or an increase in job content, does the clause restrict discussions to the wage rate exclusively and exclude discussions as to crew size, seniority, etc.
4. Does the company reserve the right to install an incentive plan or make changes in existing incentive plans?
5. Should all the job rates and classifications be listed in the agreement?
6. What provision is made for an employee who wishes to change jobs?
7. What provisions are made for employees who are requested by the company to change jobs?
8. Shall the wage structure provide for single rated jobs or rate range schedules?
   a. If rate ranges are involved, what method is established for progressing through the range?
9. Are special premiums included for shift work?
10. In the event management changes an employee from one shift to another shift, is a special premium allowed in the absence of notice?

Job Evaluation

1. If job evaluation is used, is reference made to the subject in the agreement?
2. Is there a provision for training union officials in the use of the job evaluation plan?
3. Is the company prevented from establishing a job evaluation program if one is deemed advisable?

Wage Reopener

Occasionally, where a contract term is for two years or more, a provision for reopening on the matter of wages only is included.

1. If the contract has such a provision, does it state how much notice must be given of intention to reopen the agreement?
2. Does the provision specifically list the reasons for which reopening may be asked?
3. Does the provision cover only the question of wages, or can fringe benefits or classification increases be considered?

Cost of Living

Inflationary pressures can bring demands for cost-of-living clauses.

1. In the event there is a cost-of-living provision in the agreement, does it tie wage adjustments to the Consumer Price Index issued monthly by the Bureau of Labor Statistics (BLS), U. S. Department of Labor?
2. Does it limit the cost-of-living adjustments to a change in the BLS index of at least 0.5 points?
3. Are cost-of-living adjustments frozen into the base rates for the job classifications? (Often cost-of-living adjustments are paid in addition to the base rate for the job and are not included in the base rates.)
4. Is provision made for downward adjustments in the cost-of-living?
5. Is there a maximum established beyond which cost-of-living increases will not be made during the term of the contract?

Reporting Pay

1. Is a guaranteed number of hours' pay allowed to an employee who reports for work that is scheduled but not available?
2. What is the number of hours allowed for reporting pay guarantee?
3. Does the company have a right to put employees to work outside their regular classifications, in lieu of reporting pay?
4. Is reporting pay waived if the company makes an effort to notify employees not to report for work within a reasonable period in advance of the reporting hour?
5. Is reporting pay provision waived in the event there are conditions beyond the control of the company, such as equipment failure, act of God, etc.?
6. Are reporting hours paid for but not worked, counted toward overtime computations?

Call-In Pay

1. Is the contract clear as to the distinction between call-in pay and reporting pay?
2. Does call-in pay apply only to employees recalled after completing their shift?

3. How many hours or how much call-in pay is guaranteed in the provision?
4. Must an employee remain at work a minimum number of hours in order to qualify for call-in pay?
5. If the call-in involves a full day's work rather than emergency, is the employee paid at a premium rate, and if so, for how many hours?

P. *Rest Periods and Wash-up Time*

Although rest periods and wash-up times are considered fringe benefits, they can become expensive if the provisions covering these benefits are ambiguous.

1. If clauses covering these conditions exist, are there time limitations set forth in the agreement?
2. In the event relief periods or wash-up times are abused, does the language of the agreement permit management to take remedial action?

Q. *Discipline and Discharge*

1. Does the agreement reserve to management the right to discipline and discharge employees for just cause? If so, is "just cause" defined to include
   a. Any violation of the agreement?
   b. Any violation of the company's rules and regulations?
2. Does the contract distinguish between serious offenses which are cause for immediate discharge as opposed to lesser offenses which do not justify discharge but may require some form of disciplinary action?
3. Is a written warning provision contained in the agreement?
4. Does the agreement contain a clause making it mandatory that the company notify the union in writing before taking disciplinary action?
5. Do all grievances concerning discipline have to be reduced to writing within a specified period?
6. Does the agreement specify that if an employee is reinstated with back pay, the monies received, either through working elsewhere or through unemployment compensation, can be deducted from the amount owed the employee by the company?

R. *Working Supervisors*

1. Does the agreement contain an absolute prohibition on the work a foreman or supervisor can do?
2. Does the agreement permit the foreman or supervisor to work in cases of
   a. Emergency?

b. Instruction and training of employees?
c. Testing materials and production?

S. *Contracting Out*

1. Does the agreement allow management to contract out work, and if so, under what conditions?
   a. Must the employer buy or lease equipment not in his possession?
   b. Must he train people with skills that are not readily available?
   c. Must he utilize employees who are laid off whenever practical?
   d. Does the time for completion of the job affect the decision as to whether employees might be utilized in the work versus having the work contracted out?

T. *Safety and Health*

Many agreements contain provisions for safety and health.

1. What is the composition of the plant Safety Committee?
   a. Is the union represented? (If so, what is its function?)
2. How often does the committee meet?
3. Does the committee have authority to correct unsafe acts, or does the committee act in an advisory capacity?
4. Does the committee make periodic inspections of the working facilities?
5. If the union is represented on the committee, does the company pay for time spent in safety meetings?
6. Is there a provision which states that a member of the grievance committee cannot also serve as a member of the plant Safety Committee?
7. Does the provision require that all safety equipment be used by the employees?
8. Does the provision pledge the union to promote in every possible way a program for preventing accidents?
9. Should accident investigation reports be supplied to the union?

U. *Injury on the Job*

1. Does the agreement cover injuries in the plant?
   a. If an employee is injured and is unable to work, will he be paid for eight hours' work?
   b. If a doctor determines the employee can work and he doesn't work, is the employee paid only for the hours actually worked?
   c. Is it a contractual provision that all injuries must be reported whenever they occur?

V. *Sick Leave Pay*

Often unions will demand sick leave pay during the course of negotiations, and there are some contracts which include this benefit.

1. Is paid sick leave to be granted in addition to weekly disability benefits available under the company's insurance program?
2. How much sick pay does the employee receive for each day he is on sick leave, and how is the amount determined?
3. What is the maximum number of paid sick days allowed each year?
4. Is there a waiting period before paid sick leave is granted?
5. Is sick leave cumulative from year to year? If not, is there a provision allowing the employee to receive pay in lieu of the unused portion of sick leave?
6. Is the employee required to furnish proof of disability in order to qualify for sick leave benefits?

W. *Duration*

The important issue in reviewing the term of the agreement is how long it runs and how it can be renewed.

X. *Termination*

The Taft-Hartley Act devotes considerable attention to the procedures for the renegotiation or the termination of existing collective bargaining agreements. The Act specifically directs certain procedural requirements to be followed by both management and the union.

In order to comply with these regulations, termination language requires that the party desiring to terminate or make changes in an existing agreement must serve notice of such intention on the other party not less than sixty days prior to the expiration date of the present agreement. Negotiation as to termination of the agreement or proposed changes must commence promptly and, if agreement has not been reached by thirty days prior to the expiration date, the law imposes an obligation to notify the Federal Mediation and Conciliation Service of the existence of an unresolved dispute. Resort to economic force during the sixty days prior to the expiration of the agreement is prohibited, and if a strike takes place the strikers are subject to discharge without recourse.

XII. IF NEGOTIATIONS FAIL

A. *Introduction*

Sooner or later in negotiating a contract, whether the first or a subsequent one, the parties near the point of confrontation. It is assumed that the following major steps have been taken prior to or during the course of negotiations:

1. Management in all its phases in the organization has been consulted and opinions received and analyzed so that basic company demands and requirements are known, and have been presented to the union.

2. Union demands have been presented to the company, which in turn has referred these demands to all concerned policy-making executives for analysis and comment.
3. The company has reviewed the problem "if a strike occurs" and will take or has taken the measures necessary to protect its interests. It can be assumed that the union has done the same thing, and has probably taken a "strike vote." This may be purely pro forma support for the bargaining committee and is to be expected. On the other hand, no matter what the motives behind the "strike vote," it is a move for strike action and must not be passed over lightly.
4. Mediation or conciliation services in the form of federal or state agencies have been informed.* In some states it is mandatory that the mediation service be notified a certain number of days before a fixed strike date or contract expiration.

B. *Avoiding Unfair Labor Practices*

If negotiations fail, it is assumed that the resulting strike, lock-out, or breakdown in negotiations will be the result of failure to reach an agreement on economic matters. If this is true, strikers can be replaced, the plant can be operated, and the battle can be fought on economic grounds. However, if unfair labor practice charges are filed by the union and the strike is based on objections to these practices, then the company's chance for a clear decision on economic matters is impaired. The two major unfair practices to avoid are:

1. Failure to bargain in good faith. This must be kept constantly in mind, as the law requires that both company and union bargain in good faith.
2. Discharge of employees or discrimination against them because of their union sympathies or activities.

The complicated legal problems that may result from unfair labor practice charges are not discussed in this guidebook, and it is assumed that a company will realize the importance of consulting legal counsel and will assiduously avoid actions which will result in such charges being filed. It must also be remembered that if negotiations are not moving satisfactorily for the union, it may seek grounds for unfair labor practice charges in order to abort the possibility of an "economic" strike.

C. *Confrontation*

When confrontation is reached, the company must be prepared to lay on the table its minimum demands and to specify acceptable union demands. Wherever possible, the agreements reached on various points should be expressed in contract language. The company and the union are now

*Notice for federal mediation discussed on page 41.

cognizant of each other's "final" position and the "battle lines" are drawn. Here are the alternatives:

1. In order to reach an agreement before the strike deadline, shifts in the "final" position by either the company or union can be made. Here the poker game aspects of bargaining are most apparent. What does the company have in its hand? Can it really take a strike and of what duration? Does the current business picture demand continued operation of the plant, or has it been possible to stock-pile products so that the effects of a strike will be minimal? Just how much further can money or fringe concessions be stretched? If a strike occurs, can replacements for striking employees be hired?

   What does the union have in its hand? Has it really been preparing for a strike? What is the sentiment of the union members? Do they want a strike? Can they afford it?

   Does either side have an issue or issues on which it feels it cannot compromise? Has either side taken a position from which it feels it cannot retreat? Will a measure of face-saving make agreement possible?

   Here the law and good sense demand that every effort be made by both parties to adjust positions so that an agreement is possible. On the other hand, both parties must live with what they agree to, and a long look should be taken at what life will be like under any proposed agreement.

2. If it appears that no agreement will be reached before the deadline, mediation services should be informed. Whether mediation enters the negotiations is at the option of the parties, except in a situation where a strike would have serious economic repercussions in a community or create shortages of critical materials or services. Refusal of mediation by either party impairs the luster of that party in the eyes of the public and of employees who would be affected by the strike. Mediation can be useful depending in part on the mediator, but the basic question in reaching an agreement (i.e., will it work for both parties?) still has to be answered by the parties involved.

   Mediation is not a "doctor" but a fresh approach, an experienced viewpoint, and sometimes a valuable objective intermediary. In the latter role, mediation can perform its legal duty of finding a middle ground and can be invaluable in helping either party to (a) save face and abandon or change an untenable position, or (b) change position without the consequent show of weakness.

   Arbitration is proposed frequently by public officials or the press as a means of getting parties together. This is a possible course for the settlement of ancillary issues, but negotiating a contract is an economic

matter between two parties and in this case arbitration has little to offer if the right of individual decision is to be maintained.

3. If final adjustments in demands have been made, mediation has been consulted, no agreement has been reached, and the union has stated it will strike, then final preparations for the strike must be made. At this point it is essential for the company to have ready a clear statement on the items on which there is agreement and the "last" offer on those on which there is disagreement.

   All echelons of management should know the company and union positions. Management may feel it necessary to inform stockholders. Company counsel should be consulted as to how these positions should be communicated to employees and the public. Prominent citizens and organizations at the company's option can be apprised of the situation.

   Local police should be advised of the imminence of the strike if they have not previously been informed. The security of the plant should be reviewed in reference to guard service, maintenance of points of entry and exit, handling of incoming and outgoing materials, activities of non-union personnel, and maintenance of communications, power, water and sewage lines, and fire protection. Keep in mind that the union is checking all of these points, too.

   If the company is ready, there is less possibility of a strike occurring. A strike is frequently an exercise in brinkmanship and will be pushed if the company is off-guard. However, some unions use the strike weapon ruthlessly, and there is no advantage in thinking, wishfully or otherwise, that a strike will not occur. If negotiations have, in effect, broken down, economic war is now being waged whether or not it is declared.

   At this point the final decision must be made as to whether to continue to operate the plant if a strike occurs. The plant can be kept open by utilizing the services of supervisory, technical, or office personnel in the operation of equipment. More extensive operations can be maintained by advising all employees that anyone who chooses to work may do so and allowing present employees access to the plant. Furthermore, if regular employees do not work because of a strike, new employees may be hired and admitted to the plant.

   As this decision is being weighed, legal counsel should have prepared the necessary petitions for injunctions to limit picketing, restrain violence, and also be prepared to sue for damages in case of property damage or personal injury. The union should be informed that the company is ready to make such moves and that it will protect its

rights, the rights of its employees, and the property of all parties concerned to the full extent of the law. The threat of civil action will help in preventing violence and, if operations are maintained, make it possible for those employees who wish to work to enter and leave the plant in orderly fashion. Management should station observers at potential trouble spots, prepared to take affidavits and photograph evidence of unlawful conduct.

Consideration must be given as to how to keep picketing peaceful and prevent altercations between employees. A strike and related picketing are legal acts although they may be limited by contractual agreements. Violence directed against persons and property is not legal, and the company should be prepared to advise all employees to report threats or acts of violence immediately so that legal action against offenders can be taken.

4. Occasions develop in which agreement is not reached and the union either (a) does not take a strike vote and advises that it intends to strike, or (b) having taken a strike vote, does not strike but attempts to continue negotiations beyond the expiration date of the current contract, or beyond whatever deadline exists, and expects the plant to continue to operate. This may occur after "last offers" have been made.

The company has several problems here. One is that if it is prepared for a strike, then it loses an advantage of timing if strike action is postponed. The other problem is the question of retroactivity. Should any wage increases or benefits when granted be made available for employees back to the date of expiration or the original deadline? Retroactivity is one of many areas where a union may have its cake and eat it, too, because timeliness disappears as a factor. An offer of retroactivity contingent on a no-strike pledge may help maintain industrial peace during negotiations. Stoppages are less likely if employees realize that by striking they will forfeit additional economic benefits. Many companies feel that, as a general rule, retroactivity should be denied. This may, in turn, trigger the strike, but if conditions have been faced up to that point, then the strike is the logical and expected economic step.

If the union takes no decisive action after the expiration date, the company may wish to explore the feasibility of the lock-out. For many years, the lock-out has been in a legal twilight zone. Recent Board decisions have given it a more definitive position. No action on a lock-out should be taken without advice of counsel. It is a move, however, that can be a counterpart of the strike, if properly executed, and can perform a service in resolving otherwise intransigent posi-

tions. It must be remembered that the lock-out probably will make unemployment compensation available to the employees as the company will have made work unavailable.

D. *Strike and/or Lock-out*

A high percentage of negotiations result in settlement without work stoppage. This is the objective of negotiators because nobody wins in a strike. But if agreement is not reached, depending upon the action taken by the company and/or union at this point, a deadlock will develop and a state of strike, lock-out, or broken-off negotiations comes into existence. At this point, events can move rapidly. Company negotiators should keep constant watch over every detail. Strikes or lock-outs are traumatic experiences to be avoided if possible. But being legalized and part of an established pattern of economic activity they must be faced and handled adroitly to avoid serious damage to the company's future, or to the otherwise uninvolved citizens of the community, or the families of employees (whether union members or not), or simply the bystander who gets involved or injured by just being around or living nearby.

The solution to the deadlock probably will follow one of the patterns outlined here:

1. If a company thinks it cannot win a strike, it should not be maneuvered into one, but sometimes people and events get out of control and the strike "happens." Or miscalculation in strike strategy occurs. Then the company finds it cannot hold out for any length of time after the strike has started, and it must settle and agree to a contract on the best terms available. In this case, the company "loses" the strike and may as a result of the settlement find itself in a precarious economic position during the contract period. Drastic steps may have to be taken in realigning production methods, or other means taken to achieve adequate earnings.

   The significant point here is to assure that the contract recognizes management's right to take bold action if necessary to preserve itself or its competitive position. Also, the settlement of a strike in such a fashion may whet union ambitions, make everyday operation of the plant difficult, and presage more liberal demands at the next contract negotiations.

2. The company may keep the plant closed after the strike starts, or choose the lock-out route if the deadline has been reached and the union appears to wish to continue to work. The union may take a number of steps to confuse the company, but no matter what the union does the company still has an obligation to bargain and must continue to seek means whereby a settlement may be reached. Mediation may

bring in a solution or outline terms which the union will accept.

If a company is in a strong position to allow the strike or lock-out to continue, it is logical that the company will get terms that it considers workable. Sometimes this is the only possible conclusion to negotiations if wages, fringes, or conditions in the plant have been out of line. Frequently employees are reluctant to accept changed conditions. Sometimes a strike facilitates employee cooperation with the company's goals. On the other hand, following a strike the company may face a situation in which it must make new, and sometimes distasteful, terms work. Vindictiveness of any type in any echelon of management must be ruled out. The burden of maintaining healthy industrial relations now lies with the company. There is always another negotiation ahead and rancor has no place at any negotiating table.

3. The company may choose to operate the plant either fully or to some limited degree after the strike starts or the deadline has been passed. If the strike is not popular or there is a dissident group, employees may readily return to work. If the strike is "economic," new employees may be hired, full operations may be reached, and striking employees may be considered replaced. However, striking employees should be informed that they will be replaced before new employees are hired; new employees should be hired through the use of customary procedures from areas where the company normally seeks employees, and they should be advised that the company considers the jobs to be permanent.

The company and employees now will find the plant operating without a contract. It is advisable to maintain the wage levels and benefits which were in effect at the time the strike started, or consideration can be given to putting into effect the wages and terms of the company's "last" offer. However, in reference to insurance and pensions or fringes of this type in the "last" offer, these may be better left as is for the employees who are working because time and paperwork make this type of change hard to accomplish under the stress of a strike. Of course, for replaced employees everything would be discontinued. The employees may decide that they wish to discontinue having union representation. They can petition for decertification. There is also the possibility that they may desire representation by another union, in case they are dissatisfied with the activities of the existing certified agent. Under the law, these are choices which they alone have and concerning which the company has no voice.

However, a company can ask for a representation election by filing a petition if the time is beyond the initial certification year and there is good reason to believe the majority of the employees do not favor

the presently certified union. If many of the employees who were active employees before the strike are currently working, there is a good chance that this is the case. New employees who have replaced strikers can vote. However, strikers retain voting rights for a period of one year. Again, the choice is up to the employees but a petition by management may give them the opportunity to indicate their choice. A union does not readily give up its bargaining rights with a plant where it has had a contract. Whether or not there are elections, a union will make every effort to gain a contract and may make significant concessions in order to reach an agreement with the company and resume its position in the plant. If so, and assuming the problem of retroactivity has been or will be effectively ruled out, the other major stumbling block in finalizing an otherwise acceptable agreement will be the question of seniority for workers who have replaced strikers. Here counsel should be consulted. Normally, new hires, whether they replace strikers or not, have to be treated under generally accepted procedure and take their position chronologically on their respective seniority lists. This, in turn, requires action which is bargainable on the exact status of striking employees as to whether they should be allowed to return to work with original seniority or whether they are permanently replaced. To allow the latter action is one concession the union probably will not make.

E. *Look to the Law*

All contract negotiations and the strike, picketing, or lock-out that might occur as a result of failure of negotiations are conducted on multiple legal frameworks.

At present, the legal aspects of the various national and state labor-management relations acts and the pronouncements of the National Labor Relations Board or state boards are uppermost in the minds of company and union leaders alike. However, there are the traditional disciplines of civil and criminal law which form another framework equally significant. Legal frameworks dealing with simple conditions of employment such as wages and hours, safety, and, recently, civil rights, represent another area to be considered. The need for sound legal counsel in constructive negotiations is evident.

It is also clear that legal counsel has an obligation to protect company rights where violations of contract or law occur. Constant vigilance is necessary in order to maintain legal safeguards and the exercise of proper legal steps, and court action—where indicated—is a significant part of contract negotiations, particularly where the bold actions of strike, picketing and lock-out are involved.

Whether a strike takes place or not, the company should recognize a union bargaining device which has increased dramatically and can produce labor relations friction and instability. This is the rejection of a proposed contract by the membership after it has been negotiated by union representatives and the company. If a strike is in progress, this technique could prolong the strike. On the other hand, if the proposal is submitted for ratification by the membership and is turned down, the company might be faced with increased labor costs in order to avoid a strike. Whenever a contract proposal is dependent upon membership approval, the company should be prepared to explore alternative approaches to a satisfactory conclusion.

XIII. DOs AND DON'Ts IN NEGOTIATING THE CONTRACT

The various elements making up successful negotiations have been discussed in detail in the preceding sections, where we have considered: The gathering of information prior to negotiations, evaluation of past experience, selection of the negotiating team, techniques of negotiating, the need for examination of every detail in the formulation of the contract, and the procedures required should negotiations not be successful. It is obvious that there is no pat formula to follow. However, in summary here are some dos and don'ts that could determine the success or failure of bargaining.

DO see that your labor contract permits you to remain competitive.

DO analyze every proposal to determine what it will cost now and in the future, and avoid hidden cost items.

DO ask for revisions or modifications of your contract to give you greater efficiency.

DO remember that collective bargaining is a two-way street—that the union will often "trade" to get what it wants.

DO make effective use of the counter-proposal.

DO state at the beginning that the terms of the contract become effective on the date the agreement is signed, not retroactive to the date bargaining begins.

DO stick by your position with courage when you know you are fair and right.

DO make sure you have not relinquished important company rights.

DO analyze, digest, review and scrutinize suggested contract language before agreeing, to avoid "give-away" clauses and "sleepers."

DO remember that you have a duty to bargain, but that you are free to disagree and reject any proposal.

DO understand that unions are political organizations and take into account their neck and/or face-saving devices.

DO make sure the final contract has been checked by a competent attorney, to make certain its provisions will hold up and that you are on sound legal ground.

DO try to negotiate from your old labor agreement and your own proposals.

DO avoid permitting the union to take the ball away from you by constant referral to its own proposals.

DON'T relinquish control of the meeting.

DON'T interrupt the union presentation of a proposal, no matter what you think of it personally.

DON'T bargain solely on union demands.

DON'T be misled on mutual consent clauses. (Remember that ability to operate effectively is your most important consideration and that frequently mutual consent clauses give to the union authority not originally intended, and a veto over management actions.)

DON'T make commitments without deliberation.

DON'T offer to make major concessions unless the offer is contingent upon the reaching of a complete agreement.

DON'T give away in one clause of the agreement what you have carefully obtained or preserved in another.

DON'T overlook the need to keep abreast of what employees themselves are thinking and how they are reacting.

DON'T neglect to consider what your agreement will mean to other businesses in your community.

Appendix A

CHECK LIST ON COST OF FRINGES

Check group(s) for which this form is being completed: _____All Employees _____Hourly-Rated _____Salaried Exempt _____Salaried Non-Exempt

Average number of employees in group(s) checked_____

Compute the Average Base Hourly Earnings for the group(s) checked:

$\frac{\$ \text{ Total Wages/Salaries*}}{\text{Total Hrs. Act. Wkd.**}} = \$ \text{ Average Base Hourly Earnings}$

Section I

Cost of Premium Payments, Benefits and Services in "Cents Per Hour"

	Cost	Cents Per Hour (Cost ÷ Total Hrs. Actually Worked)
Premium Payments for Time Worked		
Daily		
Weekly		
Sixth or Seventh days		
Saturdays or Sundays		
Holidays		
Shift differentials		
Bonus in lieu of vacation		
Payments for Special Duties		
Grievance procedures		
Labor contract negotiations		
Union stewards on union business		
Payments for Health and Security Benefits		
Retirement plans		
Special Retirement plans		
Social Security		
Savings plans		
Profit Sharing plans		
Group life insurance plans		
Medical, surgical and hospital insurance plans		
Weekly accident and sickness insurance		
Supplemental unemployment benefits		
Workmen's Compensation		
Totals		

*This will be "Total Wages/Salaries" for the group(s) checked. Exclude the cost of any item in Section I below.

**This will be "Total Hours Actually Worked" by the group(s) checked. Exclude any hours paid for but not worked.

	Cost	Cents Per Hour (Cost ÷ Total Hrs. Actually Worked)
Payments for Time Not Worked		
Non-occupational disability insurance premiums (private)		
Supplements to Workmen's Compensation		
Sick and maternity leaves		
Medical care time (at the plant)		
Holidays		
Vacations		
Paid leaves for Reserve/Natl. Guard duty		
Military induction bonus		
Military service allowances		
Voting time		
Witness time		
Jury duty		
Excused absence—personal		
Lunch periods		
Wash-up time		
Reporting pay		
Call-in time		
Call-back time		
Down time		
Dressing time (clothes-change time)		
Portal-to-portal time (travel within plant or on the premises)		
Wet-time (time lost due to inclement weather)		
Other		
Totals		
Payments for Employee Services		
Cafeteria losses		
Credit union		
House financing		
Parking space operation		
Other		
Totals		

	Cost	Cents Per Hour (Cost ÷ Total Hrs. Actually Worked)
Other Expenditures		
Contest awards		
Christmas bonus		
Educational reimbursements		
Employee uniforms, work clothes, safety clothing or allowances		
Laundry allowance		
Supper money and free meals		
Other		
Totals		

	Cost	Cents Per Hour (Cost ÷ Total Hrs. Actually Worked)
TOTAL COST OF PREMIUM PAYMENTS, BENEFITS AND SERVICES		
TOTAL COST OF PREMIUM PAYMENTS, BENEFITS AND SERVICES IN CENTS PER HOUR		

Section II

Average Cost Per Year, Per Employee of Premium Payments, Benefits and Services

$_____	÷	_____	= $_____
Total Cost of Premium Payments, Benefits and Services		Average Number of Employees in Group(s) Checked	Average Cost Per Year Per Employee

Section III

Cost of Premium Payments, Benefits and Services as a Per Cent of Payroll

$_____	÷	$_____	= %_____
Total Cost of Premium Payments, Benefits and Services		Total Wages/Salaries	Cost as a Per Cent of Payroll

Appendix B

DEFINITION OF UNION SECURITY TERMS

Right to Work—The right of an individual to work without being compelled to belong or not belong to a labor union.
Closed Shop—An individual must belong to the contracting union before he can be employed and must continue to be a union member for the duration of his employment.
Union Shop—An individual who is not a union member may be hired, but he must join the union within a stated period of time after employment (usually 30 to 60 days).
Agency Shop—All employees in the bargaining unit, whether union members or not, must pay union dues as a condition of employment.
Maintenance of Membership—All present union members must continue membership in the union for the duration of their employment.
Preferential Hiring—Employers must hire union members to the extent that the contracting union can supply a sufficient number of qualified workers.
Yellow Dog Contracts—An individual can be hired only if he is not a union member; he must remain a nonmember as a condition of his employment.

History in Brief

1932—Norris-LaGuardia Act outlawed Yellow Dog contracts and clearly stipulated the right of workers not to join unions.
1935—Wagner Act authorized closed shop contracts between unions and employers.
1944—Florida and Arkansas adopted first Right to Work laws.
1947—Taft-Hartley Law outlawed the closed shop and reaffirmed the right—in Section 14(b)—of states to pass Right to Work laws.
1949—U.S. Supreme Court upheld the right of states to pass Right to Work laws *(Lincoln Union* v. *Northwestern)*.
1955—National Right to Work Committee organized as a nonpartisan, nonprofit coalition of employees and employers with a single purpose: to protect the right of the individual to join or not join a union without losing his job. Membership in the fall of 1964 was about 15,000, including 2,700 workers, mostly union members.
1963—U.S. Supreme Court held that state laws which prohibit both compulsory union membership and the "agency shop" are valid and effective *(Schermerhorn Decisions)*.
1966—Efforts to repeal Section 14(b) of the Taft-Hartley Law were defeated in Congress, thus preserving the right of states to have Right to Work laws.

Position of Individual States

States which have repealed RTW laws—Louisiana and Indiana. (Maine, New Hampshire, Delaware, and Hawaii repealed laws which restricted, but did not prohibit, union security agreements.)
States which have defeated RTW laws by referendum—California, Maine, Massachusetts, New Mexico, Oklahoma, and Washington.
States in which RTW laws have been defeated in legislatures—California, Colorado, Connecticut, Idaho, Illinois, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, and Wyoming.
States with RTW laws in force—Alabama, Arizona, Arkansas, Florida, Georgia, Iowa, Kansas, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

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Appendix C

SELECTED REFERENCES DEALING WITH COLLECTIVE BARGAINING

Automation and Collective Bargaining. Benjamin S. Kirsh, Brooklyn, New York, Central Book Co. $6.50.
Poses the need for joint solutions which meet fair and economic standards for the distribution of the benefits and savings automation introduces.

Collective Bargaining (Second Edition). Neil W. Chamberlain and James W. Kuhn. McGraw Hill Book Co., 1965. 451 pp. $6.85.
Textbook on collective bargaining per se examining its processes and institutions.

Collective Bargaining—Principles and Practices. Max S. Wortman, Jr. and C. Wilson Randle. Boston, Houghton Mifflin Co., 1966. 564 pp.

Collective Bargaining Negotiations and Contracts. BNA, Washington, D.C. 20037.
A loose-leaf service covering bargaining techniques and trends. Current settlements. Contract Clause Finder. Basic patterns in Union Contracts.

Creative Collective Bargaining: Meeting Today's Challenge to Labor-Management Relations. Edited by James J. Healy. Prentice-Hall, Inc., Englewood Cliffs, N. J., 1965. 294 pp. $7.95.
Analyzes some 15 major and minor collective bargaining situations, evaluating reasons for success or failure. Contrasts creative with "traditional" bargaining.

Drafting a Union Contract. LeRoy Marceau, Little, Brown and Co., 34 Beacon St., Boston 6, Mass. 305 pages. $12.50.

How to Win at the Bargaining Table. Research Institute of America, Inc., 589 Fifth Ave., New York, N. Y.
Deals with the composition of the management team, steps essential to preparation, special tactics for the opening statement, precautions for small companies, strategy.

Labor-Management Contracts at Work. Morris Stone. Harper and Brothers, New York 16, N. Y. $5.50.
An analysis of cases and awards of the American Arbitration Association in ten critical areas. How past practice affects the interpretation of union contracts.

Management Rights and Union Bargaining Power. Guy Farmer. Industrial Relations Counselors, Inc., 1965. 31 pages. $2.50.
Analyzes NLRB and Supreme Court rulings, their practical impact on the employer, and the avenues for achieving solutions.

Major Collective Bargaining Agreements. BLS Bulletin 1425-4, 40¢. Superintendent of Documents, Washington, D. C. 20402.
An analysis of 1800 contracts covering 7.6 million workers.

Negotiating the First Union Contract. Ohio Manufacturers Association, 16 E. Broad Street, Columbus, Ohio 43215. 15 pages.

Pitfalls in Bargaining Agreements. National Screw Machine Products Association, 2860 East 130th St., Cleveland 20, Ohio.

Protecting Management's Rights Under a Union Contract. Research Institute of America, 589 Fifth Avenue, New York, N. Y.

Appendix D

RELATED NAM PUBLICATIONS

LABOR NEGOTIATIONS

491 COMPULSORY ARBITRATION AND GOVERNMENT INTERVENTION IN LABOR DISPUTES
A summary and analysis by Dr. Herbert R. Northrup, Professor of Industry, University of Pennsylvania. 24 pages. 50¢.

507 COMPULSORY ARBITRATION OF INDUSTRIAL DISPUTES IN FOREIGN COUNTRIES
Highlights of the experience of 19 nations. 14 pages. 50¢.

836 DO YOU STILL HAVE THE RIGHT TO RUN YOUR PLANT?
A self-audit of management rights where unions are involved. 12 pages. 25¢.

149 IS COMPULSORY ARBITRATION THE ANSWER TO LABOR CONFLICT?
A brief analysis—with views by prominent Americans. 17 pages. 25¢.

434 STATESMANSHIP IN INDUSTRIAL RELATIONS
Practical suggestions on how the manager can function more effectively at the bargaining table. 24 pages. 50¢.

636 SOME DO'S AND DON'TS FOR SUPERVISORS
A guide for employers as to what supervisors can do and cannot do in a representation campaign. 4-page leaflet. $4.00 per 100.

489 THE COMING CRISIS IN LABOR LAW
An evaluation of our labor-management condition and the need for corrective statutes. 14 pages. 50¢.

857 THREE'S A CROWD
Monograph discussing third-party intervention into collective bargaining. 14 pages. 25¢.

435 WHAT'S WRONG WITH LABOR ARBITRATION?
Misuse of arbitration to supply contract terms instead of to interpret them. 10 pages. 25¢.

COMPULSORY UNIONISM

383 FREEDOM TO CHOOSE
Analysis of union charges against right to work laws. 6 pages.

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The case for voluntary unionism. 4 pages.

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