TECHNIQUES AND PROCEDURES IN LABOR ARBITRATION*

I. General Handbooks, Guides, and Surveys


Standards of ethics for the parties, as well as for the arbitrators, are included in this code.


A statistical study of 1,183 arbitration awards made in 1954. This article is Part I of a two-part report and deals entirely with the prevalence of various types of arbitration procedures.


An excellent brief guide for employers to good arbitration practices.


Advice to management on ways of presenting to the arbitrator the factual information he needs in order to make a workable award. The use of a brief as a training device is especially stressed. Also suggests that management improve its preparation by role-playing the hearing in advance.


Written by an experienced arbitrator, this introductory treatment of the subject outlines “the procedures and principles that might be followed in making labor arbitration more effective.”

* Items from this list should be ordered directly from the publisher. Addresses are given in connection with each reference.


The first article lists four criteria for choosing an arbitrator: membership in a panel which maintains high standards, varied background of experience, efficiency as chairman for informal hearings, and a "judicious temperament." The second article includes a checklist of matters to be considered by management in preparing an arbitration.

University of California, Institute of Industrial Relations. *Preparing and presenting arbitration cases*; selected addresses from the 1954 Conference on Arbitration and Labor Relations. Berkeley. 1954. 36 pp. 50 cents.

The papers included in this pamphlet cover the following topics: “What the arbitrator needs from the parties,” by Arthur M. Ross; “The preparation of arbitration cases,” by John B. Lauritzen; “The use of statistical data in arbitration,” by Maurice I. Gershenson; “The presentation of arbitration cases,” by Roland C. Davis; and “Recurring problems in grievance arbitration,” by J. Noble Braden.


Covers both the law and the conduct of labor arbitrations and is intended "to set forth fully a special and important procedural method by means of which the respective rights and privileges of employers and employees are declared and protected."


Report of a survey in which experienced management and union personnel and over 200 arbitrators participated. Opinions expressed cover the purposes of arbitration, the selection of an arbitrator, the status of the arbitrator, the scope of arbitration, procedures to be followed in hearings, the issuance of the award, and the cost of arbitration.

II. DISCUSSION OF ISSUES

A discussion of "the role of the general legal practitioner in ad hoc arbitration" and of the more common procedural problems which he will encounter. These include definition of the issue, the order of presentation, the burden of proof, the introduction of evidence, and the examination of witnesses.


Concerned with the use of arbitration in the administration of collective bargaining agreements, the author includes discussion of certain "questionable trends or conditions." These are overlegalization of the arbitration process, excessive use of arbitration, inadequate use of decisions for training foremen and stewards, inequitable use of the black-list and decision box score, deficiencies in the preparation and presentation of cases, and inadequate screening procedures prior to arbitration.


An examination of experience and informed opinion regarding the role of voluntary arbitration of contract terms in the promotion of industrial peace and, more particularly, the extent to which the limited submission agreement can make contract arbitration more acceptable.


A counter-argument to Singer's article in the February 1951 issue. Argues that the place for mediation is at the bargaining table and that arbitration is solely concerned with the interpretation of a contract, and therefore "the historic practices which characterize our judicial system should be followed" in the adjudication process.


In this three-sided discussion, Tracy H. Ferguson presents management criticisms of arbitrators and suggests that arbitrators ought to make "a searching self-analysis" of their own philosophy and methods. Herman Cooper, representing a labor viewpoint, challenges the growing tendency of arbitrators to give "judicial, if not judicious, pronouncements instead of practical solutions," and in general to take themselves too seriously. As an experienced arbitrator, Aaron Horvitz, in turn, challenges some of the practices of labor and management which tend to sabotage the arbitration process.

Summarizes practice and discusses arguments for and against tripartite boards or single arbitrators. Suggests that a board is appropriate when arbitration is "an extension of collective bargaining," especially where "there is some possibility of a meeting of the minds." Single arbitrators are to be preferred for run-of-the-mill grievances.

Simkin, William E. *Acceptability as a factor in arbitration under an existing agreement*. Philadelphia 4, University of Pennsylvania Press (3436 Walnut St.). 1952. 67 pp. $1.00 [Published for the Labor Relations Council of the Wharton School of Finance and Commerce.]

Written by an experienced arbitrator, this paper explores "possible ways and means of increasing the acceptability of the systems of grievance arbitration and the decisions issued under such systems."


"The introduction of rules and standards into arbitral proceedings has caused it to lose some rapidity of adjudication." Argues that a purely legalistic approach will destroy the "living-together philosophy" of labor-management relations. "If we are to insist upon a decision which is legalistic at all times and do not conciliate or mediate the positions of the parties on occasion, difficulties may be promoted within the plant which may never be corrected." In general the author argues against a juridical approach to arbitration in favor of an informal approach stressing content, rather than form.


The author holds that voluntary arbitration is not likely to succeed in the long run unless it is developed "as a process in which the meeting of minds and the mutual acceptability criteria have a place." He is an advocate of adapting arbitration practices and procedures to meet the needs of the parties.


Discusses "conflicting concepts of the functions" of the arbitration process, the role of mediation in arbitration, the significance of precedents, the part played by government, the conditions necessary for successful arbitration, and the limitations of arbitration.