

# TECHNICIAN ENGINEER

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INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS — AFL-CIO



# STATION BREAKS

## The Adventures of a Big Red Bus

Despite mountainous obstacles, Walter Kronkite and his WLV-A remote crew were able to make a "Presidential Countdown" interview of Adlai Stevenson on October 23. Mr. Stevenson was enjoying a day of rest on Sunday at the home of his sister on her Southern Pines farm, and his comments on the election were scheduled for the air on the following evening.

WLV-A's big red bus left Atlanta on Saturday morning and just after noon, it came to a halt nine miles out of Atlanta with a broken universal joint. Because garages and supply stores were closed, the only solution to the problem was to put the bus on board a tractor-trailer and the trek to Southern Pines was accomplished "piggy-back."

The next obstacle was the sand hills of North Carolina. Within 600 feet of its destination, the tape bus and its carrier bogged down on the Ives farm. A local tow truck, brought along for just such an emergency, also sank to its hub caps in the sand. By brute force the WLV-A crew hauled out the tow truck, lashed the front end to a tree and used its winch to pull the big trailer and the tape bus to the power source. The taped interview, done in two segments, took a little more than an hour. Then the whole bus hauling process went into reverse—this time, without quite so much trouble—until they got back on the highway to Atlanta.

At 5:30 A. M. the following day the bus and its crew were back at their home base. Contrary to what you might expect after this series of mishaps, the tape was fine. Chief Engineer Aderhold and his intrepid crew are at least deserving of a plaque on the wall for their hard-sought triumph over the perversity of inanimate objects and the forces of nature.

## 'Planted' Stories

A recent article in *The Reporter* reveals some shocking facts about deliberately-planted stories designed to misinform and mislead the public. An American "public relations" firm managed to get a series of stories about Formosa syndicated in 1959, but no mention was made of the fact that the correspondent was also employed by the firm. A film producer distributed eight films on war-torn Algeria, and several of the films actually were paid for by the French government; edited in New York, sound tracks were dubbed, and they were offered to television stations as news and documentary material. Only after the Castro revolution was it learned that the Associated Press "stringer" at the Presidential Palace had been on Batista's payroll.

The authors of the article in *The Reporter* were Douglass Cater and Walter Pincus, who comment editorially that the Foreign Agents Registration Act requires that propaganda be labelled as to its source and that this is the Act's "most negelected provision."

## Local AFTRA Paper

St. Louis AFTRA has started a newsy little local paper entitled *Segue*. Volume 1, No. 1, lists the new officers of the local, contains local area news, several individually-written columns and much chatty material about AFTRAns-about-town.

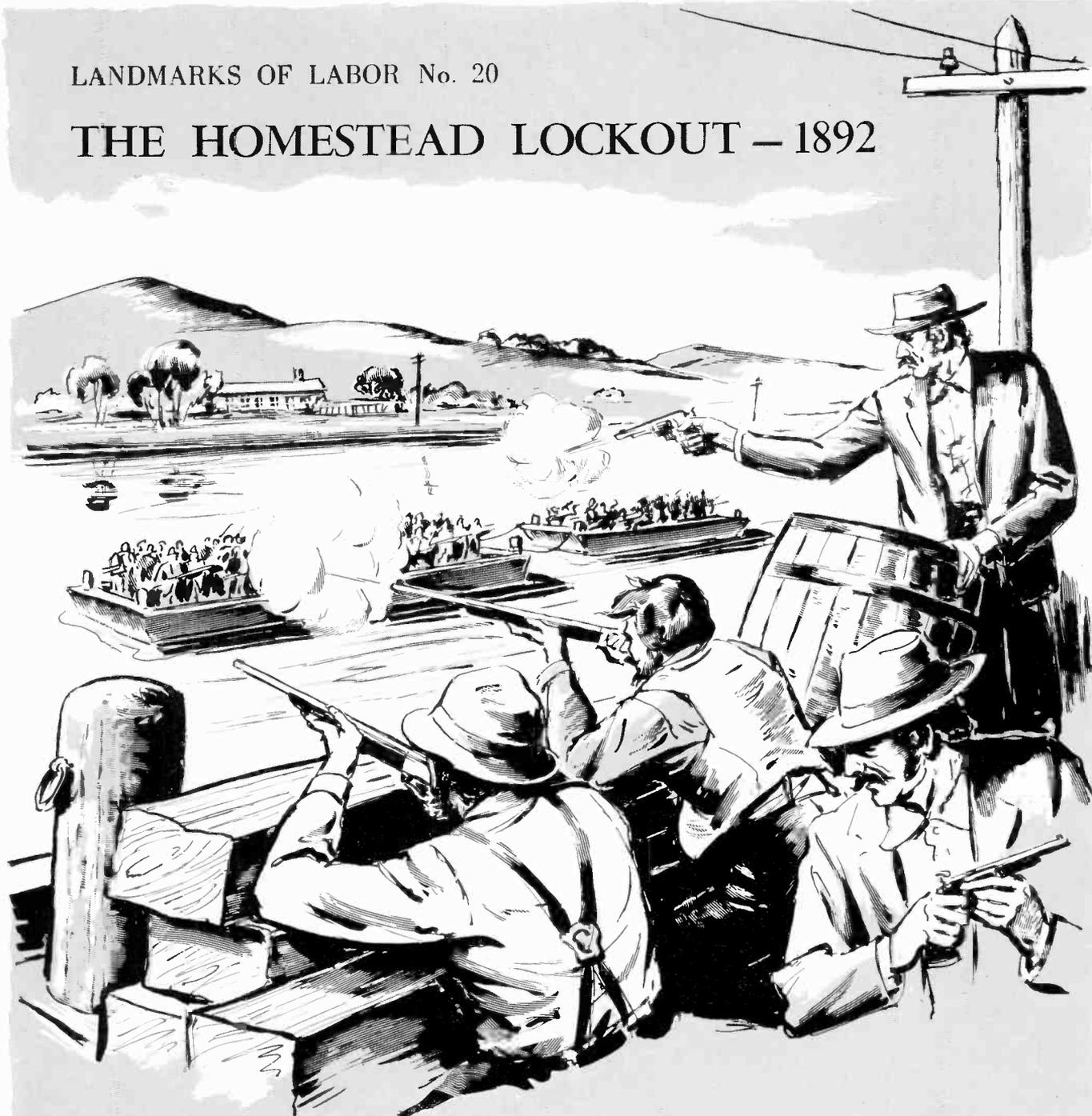
## Employers Leading

A summary of Unfair Labor Practice cases for 1960, according to the NLRB, shows complaints issued totalled 1,261. Seventy-one percent were against employers, 23% against unions, and 6% were against both.

## Few Work Stoppages

The number of strikes in 1960 set an all-time low for the preceding 18 years, and time lost by work stoppages was the lowest for any post-World War II year except 1957. Idleness caused by all strikes in 1960 amounted to two-tenths of 1% of the total time worked.

## THE HOMESTEAD LOCKOUT — 1892

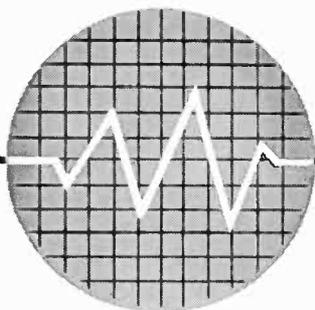


For five months at Homestead, Pa., bitter strife took place between steel workers and steel manufacturers. This period was marked by attempts of a private army of 300 Pinkerton detectives to take possession of the mills and of the revolt of the workers behind barricades. Carnegie Steel which was dominant in the industry, faced the Amalgamated Association of Iron & Steel Workers, one of the most powerful of the early labor unions.

Several were killed in the clashes which marked the hectic period from July to November. Andrew Carnegie, the steelmaster, had uttered pious phrases

extolling the right to organize, but his lieutenant, Henry Clay Frick, cracked down with the private army and later called on the state militia to help.

The steelmen smashed the union and weakened the will to resist, but in doing so they aroused public opinion and some members of Congress. Despite its failure, the struggle of the men of Homestead was called by one historian as an event "to take its place in the annals of labor history as one of the great battles for workers' rights..." Even though the steel industry was not to be successfully organized until decades later, the struggles at Homestead left their imprint on history as one of labor's landmarks.



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ALBERT O. HARDY, Editor

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*the cover* Our January cover shows some of both sides of the big event on Pennsylvania Avenue in Washington, D. C., January 20, as the nation inaugurates a new President—John F. Kennedy.

*index* For the benefit of local unions needing such information in negotiations and planning, here are the latest figures for the cost-of-living index, compared with 1959 figures: November, 1959—125.6, November, 1960—127.4.

## COMMENTARY

A Commission on National Goals, appointed by President Eisenhower, came out with its long-awaited report recently and, ironically, the report sounded like a campaign speech of President-elect Kennedy.

The Presidential commission, made up of 11 American leaders in industry, education and labor, called among other things for more industrial growth, extended medical care and Federal aid to education. It said gains in revenue to the Treasury from such industrial growth would pay for the additional costs.

"There is no desire here to belabor the partisan issue," wrote Columnist Ralph McGill, "but it is fair to say that Candidate Kennedy said exactly this and was derided by the President and others. Now, 11 of the best minds in the nation have so agreed."

Other recommendations by the Commission included calls for action in such fields as civil rights, housing

and aid to underdeveloped nations. It also urged "encouragement" of the states to meet a "minimum standard" in unemployment insurance for both the amount of benefits and the duration of payments. It recommended that unemployment be kept consistently below 4 per cent.

The report called on Americans for "extraordinary personal responsibility, sustained effort and sacrifice" to meet the challenges ahead.

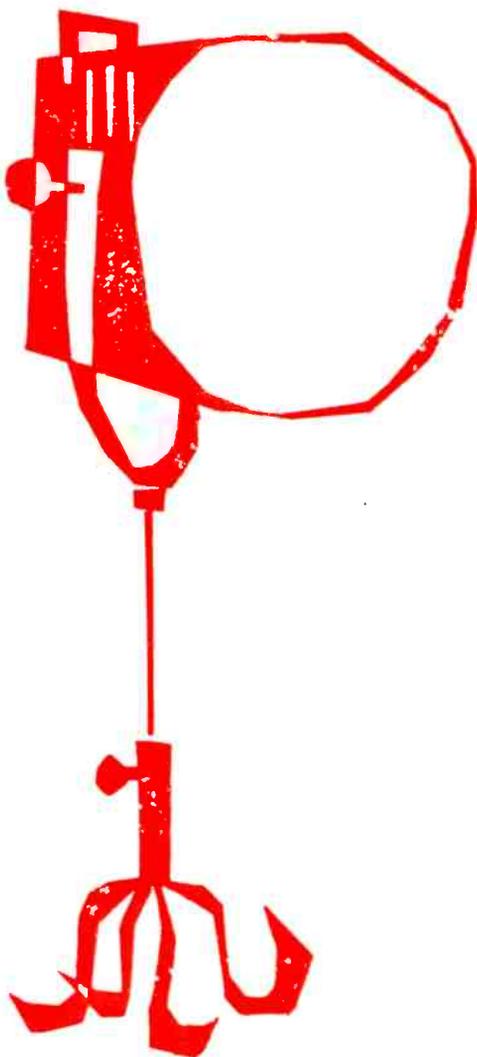
Commission Chairman was Dr. Henry M. Wriston, president of the American Assembly, Columbia University. Vice Chairman was Frank Pace, Jr., former Secretary of the Army. A member of the Commission was AFL-CIO President George Meany.

The Commission's report is a call for positive action and sacrifice in the future to solve our problems and meet our challenges.

## *Favorable Decision for IBEW*

# **NLRB Action Improper on Remote Lighting Case, Supreme Court Says**

## ***“Toni Awards” Litigation Concluded Successfully***



ON November 14, 1960, the Supreme Court of the United States heard the appeal of the NLRB of the “Toni Awards” case of 1957. Louis Sherman, general counsel of the IBEW, and Robert Silagi, counsel for Local Union 1212, presented oral argument to the Court, and the NLRB position was argued by Dominick L. Manoli, Associate General Counsel of the Board. (*For background, refer to 121 NLRB 1207; Technician Engineer* of May, 1957, December, 1957, and December, 1959).

Mr. Justice Black delivered the opinion of the unanimous Court on January 9, 1961, as follows:

This case, in which the Court of Appeals refused to enforce a cease-and-desist order of the National Labor Relations Board, grew out of a “jurisdictional dispute” over work assignments between the respondent union composed of television “technicians,”<sup>1</sup> and another union, composed of “stage employees.”<sup>2</sup> Both of these unions were certified bargaining agents for their respective Columbia Broadcasting System employe members and had collective bargaining agreements in force with that company, but neither the certifications nor the agreements clearly apportioned between the employes represented by the two unions the work of providing electric lighting for television shows. This led to constant disputes, extending over a number of years, as to the proper assignment of this work, disputes that were particularly acrimonious with reference to “remote lighting,” that is, lighting for telecasts away from the home studio. Each union repeatedly urged Columbia to amend its bargaining agreement so as specifically to allocate remote lighting to its members rather than to members of the other union. But, as the Board found, Columbia refused to make such an agreement with either union because “the rival locals had failed to agree on the resolution of this jurisdictional dispute over remote lighting.”<sup>3</sup> Thus feeling itself caught “between the devil and the deep blue,”<sup>4</sup> Columbia chose to divide the disputed work between the two unions according to criteria improvised apparently for the sole purpose of maintaining peace between the two. But, in trying to satisfy both of the unions, Columbia has apparently not succeeded in satisfying either. During recent years, it has been forced to contend with work stoppages by each of the two unions when a particular assignment was made in favor of the other.<sup>5</sup>

<sup>1</sup> Radio & Television Broadcast Engineers Union, Local 1212, International Brotherhood of Electrical Workers, AFL-CIO.

<sup>2</sup> Theatrical Protective Union No. 1, International Alliance of Theatrical Stage Employes and Moving Picture Machine Operators of the United States and Canada, AFL-CIO.

<sup>3</sup> The other major television broadcasting companies have also been forced to contend with this same problem. The record shows that there has been joint bargaining on this point between Columbia, National and American Broadcasting Systems on the one hand and the unions on the other. All the companies refused to allocate the work to either union because the unions did not agree among themselves. Columbia’s vice president in charge of labor relations explained the situation in these terms: “All three companies negotiating jointly here took the position that they could not do this. They could not give exclusive jurisdiction because each of them had a conflicting claim from another union.” See also *National Association of Broadcast Engineers*, 105 N. L. R. B. 355.

<sup>4</sup> This phrase was used by the Hearing Examiner to describe the position of Columbia as explained by its Vice President in charge of labor relations.

<sup>5</sup> See *Theatrical Protective Union No. 1, International Alliance of Theatrical Stage Employes*, 124 N.L.R.B. 249, for a report of a recent jurisdictional strike against Columbia by the same stage employes’ union involved here which resulted from an assignment of remote lighting work favorable to the technicians.

The precise occasion for the present controversy was the decision of Columbia to assign the lighting work for a major telecast from the Waldorf-Astoria Hotel in New York City to the stage employes. When the technicians' protest of this assignment proved unavailing, they refused to operate the cameras for the program and thus forced its cancellation.<sup>6</sup> This caused Columbia to file the unfair labor practice charge which started these proceedings, claiming a violation of § 8 (b) (4) (D) of the Taft-Hartley Act.<sup>7</sup> That section clearly makes it an unfair labor practice for a labor union to induce a strike or a concerted refusal to work in order to compel an employer to assign particular work to employes represented by it rather than to employes represented by another union, unless the employer's assignment is in violation of "an order or certification of the Board determining the bargaining representative for employes performing such work. . . ." <sup>8</sup> Obviously, if § 8 (b) (4) (D) stood alone, what this union did in the absence of a Board order or certification entitling its members to be assigned to these particular jobs would be enough to support a finding of an unfair labor practice in a normal proceeding under § 10 (c) of the Act.<sup>9</sup> But when Congress created this new type of unfair labor practice by enacting § 8 (b) (4) (D) as part of the Taft-Hartley Act in 1947, it also added § 10 (k) to the Act.<sup>10</sup> Section 10 (k), set out below,<sup>11</sup> quite plainly emphasizes the belief of Congress that it is more important to industrial peace that jurisdictional disputes be settled permanently than it is that unfair labor practice sanctions for jurisdictional strikes be imposed upon unions. Accordingly, § 10 (k) offers strong inducements to quarrelling unions to settle their differences by directing dismissal of unfair labor practice charges upon voluntary adjustment of jurisdictional disputes. And even where no voluntary adjustment is made, "the Board is empowered and directed," by § 10 (k), "to hear and determine the dispute out of which such unfair labor practice shall have arisen," and upon compliance by the disputants with the Board's decision the unfair labor practice charges must be dismissed.

In this case respondent failed to reach a voluntary agreement with the stage employes union so the Board held the § 10 (k) hearing as required to "determine the dispute." The result of this hearing was a decision that the respondent union was not entitled to have the work assigned to its members because it had no right to it under either an outstanding Board order or certification, as provided in § 8 (b) (4) (D), or a collective bargaining agreement.<sup>12</sup> The Board refused to consider other criteria, such as the employer's prior practices and the custom of the industry, and also refused to make an affirmative award of the work between the employes represented by the two competing unions. The respondent union refused to comply with this decision, contending that the Board's conception of

its duty "to determine the dispute" was too narrow in that this duty is not at all limited, as the Board would have it, to strictly legal considerations growing out of prior Board orders, certifications or collective bargaining agreements. It urged, instead, that the Board's duty was to make a final determination, binding on both unions, as to which of the two union's employes was entitled to do the remote lighting work, basing its determination on factors deemed important in arbitration proceedings, such as the nature of the work, the practices and customs of this and other companies and of these and other unions, and upon other factors deemed relevant by the Board in the light of its experience in the field of labor relations. On the basis of its decision in the § 10 (k) proceeding and the union's challenge to the validity of that decision, the Board issued an order under § 10 (c) directing the union to cease and desist from striking to compel Columbia to assign remote lighting work to its members. The Court of Appeals for the Second Circuit refused to enforce the cease-and-desist order, accepting the respondent's contention that the Board had failed to make the kind of determination that § 10 (k) requires.<sup>13</sup> The Third<sup>14</sup> and Seventh<sup>15</sup> Circuits have construed § 10 (k) the same way, while the Fifth Circuit<sup>16</sup> has agreed with the Board's narrower conception of its duties. Because of this conflict and the importance of this problem, we granted certiorari.<sup>17</sup>

We agree with the Second, Third and Seventh Circuits that § 10 (k) requires the Board to decide jurisdictional disputes on their merits and conclude that in this case that requirement means that the Board should affirmatively have decided whether the technicians or the stage employes were entitled to the disputed work. The language of § 10 (k), supplementing § 8 (b) (4) (D) as it does, sets up a method adopted by Congress to try to get jurisdictional disputes settled. The words "hear and determine the dispute" convey not only the idea of hearing but also the idea of deciding a controversy. And the clause "the dispute out of which such unfair labor practice shall have arisen" can have no other meaning except a jurisdictional dispute under § 8 (b) (4) (D) which is a dispute between two or more groups of employes over which is entitled to do certain work for an employer. To determine or settle the dispute as between them would normally require a decision that one or the other is entitled to do the work in dispute. Any decision short of that would obviously not be conducive to quieting a quarrel between two groups which, here as in most instances, is of so little interest to the employer that he seems perfectly willing to assign work to either if the other will just let him alone. This language also indicates a congressional purpose to have the Board do something more than merely look at prior Board orders and certifications or a collective bargaining contract to determine whether one or the other union has a clearly defined statutory or contractual right to have the employes it represents perform certain work tasks. For, in the vast majority of cases such a narrow determination would leave the broader problem of work assignments in the hands of the employer, exactly where it was before the enactment of § 10 (k) — with the same old basic jurisdictional dispute likely continuing to vex him. And the rival unions, short of striking, would still be free to adopt other forms of pressure upon the employer. The § 10 (k) hearing would therefore accomplish little but a restoration of the pre-existing situation, a situation already found intolerable by Congress and by all parties concerned. If this newly granted Board power to hear and determine jurisdictional dispute had meant no more than that, Congress certainly would have achieved very little to solve the knotty problem of wasteful work stoppages due to such disputes.

This conclusion reached on the basis of the language of § 10 (k) and § 8 (b) (4) (D) is reinforced by reference to the history of those provisions. Prior to the enactment of the Taft-Hartley Act, labor, business and the public in general had for a long time joined in hopeful efforts to escape the disruptive consequences of jurisdictional disputes and resulting

<sup>6</sup> Respondents, for the purpose of this proceeding only, concede the correctness of a Board finding to this effect.

<sup>7</sup> 29 U. S. C. § 158 (b) (4) (D).

<sup>8</sup> Section 8 (b). It shall be an unfair labor practice for a labor organization or its agents—

(4) . . . to induce or encourage the employes of any employer to engage in, a strike or a concerted refusal . . . to perform any services, where an object thereof is: . . . (D) forcing or requiring any employer to assign particular work to employes in a particular labor organization or in a particular trade, craft, or class rather than to employes in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employes performing such work: . . ."

<sup>9</sup> 29 U. S. C. § 160 (c).

<sup>10</sup> 29 U. S. C. § 160 (k).

<sup>11</sup> "When it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4) (D) of section 8 (b), the Board is empowered and directed to hear and determine the dispute out of which such unfair labor practice shall have arisen, unless . . . the parties to such dispute submit to the Board satisfactory evidence that they have adjusted, or agreed upon methods for the voluntary adjustment of the dispute. Upon compliance by the parties to the dispute with the decision of the Board or upon such voluntary adjustment of the dispute, such charge shall be dismissed."

<sup>12</sup> This latter consideration was made necessary because the Board has adopted the position that jurisdictional strikes in support of contract rights do not constitute violations of § (b) (4) (D) despite the fact that the language of that section contains no provision for special treatment of such strikes. See *Local 26, International Fur Workers*, 90 N. L. R. B. 1379. The Board has explained this position as resting upon the principle that "to fail to hold as controlling . . . the contractual preemption of the work in dispute would be to encourage disregard for observance of binding obligations under collective-bargaining agreements and invite the very jurisdictional disputes Section 8 (b) (4) (D) is intended to prevent." *National Association of Broadcast Engineers*, *supra*, n. 3, at 364.

<sup>13</sup> 272 F. 2d 713.

<sup>14</sup> *N. L. R. B. v. Union Association of Journeymen*, 242 F. 2d 722.

<sup>15</sup> *N. L. R. B. v. United Brotherhood of Carpenters*, 261 F. 2d 166.

<sup>16</sup> *N. L. R. B. v. Local 450, International Union of Operating Engineers*, 275 F. 2d 413.

<sup>17</sup> 363 U. S. 802.

work stoppages. To this end unions had established union tribunals, employers had established employer tribunals, and both had set up joint tribunals to arbitrate such disputes.<sup>18</sup> Each of these efforts had helped some but none had achieved complete success. The result was a continuing and widely expressed dissatisfaction with jurisdictional strikes. As one of the forerunners to these very provisions of the Act, President Truman told the Congress in 1947 that disputes "involving the question of which labor union is entitled to perform a particular task" should be settled, and that if the "rival unions are unable to settle such disputes themselves, provision must be made for peaceful and binding determination of the issues."<sup>19</sup> And the House Committee report on one of the proposals out of which these sections came recognized the necessity of enacting legislation to protect employers from being "the helpless victims of quarrels that do not concern them at all."<sup>20</sup>

The Taft-Hartley Act as originally offered contained only a section making jurisdictional strikes an unfair labor practice. Section 10 (k) came into the measure as the result of an amendment offered by Senator Morse which, in its original form, proposed to supplement this blanket prescription by empowering and directing the Board either "to hear and determine the dispute out of which such unfair labor practice shall have arisen or to appoint an arbitrator to hear and determine such dispute . . ."<sup>21</sup> That the purpose of this amendment was to set up machinery by which the underlying jurisdictional dispute would be settled is clear and, indeed, even the Board concedes this much. The authority to appoint an arbitrator passed the Senate<sup>22</sup> but was eliminated in conference,<sup>23</sup> leaving it to the Board alone "to hear and determine" the underlying jurisdictional dispute. The Board's position is that this change can be interpreted as an indication that Congress decided against providing for the compulsory determination of jurisdictional disputes. We find this argument unpersuasive, to say the very least. The obvious effect of this change was simply to place the responsibility for compulsory determination of the dispute entirely on the Board, not to eliminate the requirement that there be such a compulsory determination. The Board's view of its powers thus has no more support in the history of § 10 (k) than it has in the language of that section. Both show that the section was designed to provide precisely what the Board has disclaimed the power to provide—an effective compulsory method of getting rid of what were deemed to be the bad consequences of jurisdictional disputes.

The Board contends, however, that this interpretation of § 10 (k) should be rejected, despite the language and history of that section. In support of this contention, it first points out that § 10 (k) sets forth no standards to guide it in determining jurisdictional disputes on their merits. From this fact, the Board argues that § 8 (b) (4) (D) makes the employer's assignment decisive unless he is at the time acting in violation of a Board order or certification and that the proper interpretation of § 10 (k) must take account of this right of the employer. It is true, of course, that employers normally select and assign their own individual employees according to their best judgment. But here, as in most situations where jurisdictional strikes occur, the employer has contracted with two unions, both of which represent employees capable of doing the particular tasks involved. The result is that the employer has been placed in a situation where he finds it impossible to secure the benefits of stability from either of these contracts, not because he refuses to satisfy the unions, but because the situation is such that he cannot satisfy them. Thus,

<sup>18</sup> For a review and criticism of some of these efforts, see Dunlop *Jurisdictional Disputes*, N. Y. U. 2d Ann. Conference on Labor 477, at 494-504.

<sup>19</sup> 93 Cong. Rec. 136.

<sup>20</sup> H. R. Rep. No. 245, 80th Cong., 1st Sess., p. 23, I *Legislative History of the Labor Management Relations Act, 1947*, at 314 [hereinafter cited as *Leg. Hist.*].

<sup>21</sup> The amendment was contained in a bill (S. 858) offered by Senator Morse, which also contained a number of other proposals. 93 Cong. Rec. 1913, II *Leg. Hist.* 987.

<sup>22</sup> 1 *Leg. Hist.* 241, 258-259. See also the Senate Committee Report on the bill, S. Rep. No. 105, 80th Cong., 1st Sess., p. 8, *Leg. Hist.* 414.

<sup>23</sup> H. R. Conf. Rep. No. 510, 80th Cong., 1st Sess., p. 57, I *Leg. Hist.* 561.

it is the employer here, probably more than anyone else, who has been and will be damaged by a failure of the Board to make the binding decision that the employer has not been able to make. We therefore are not impressed by the Board's solicitude for the employer's right to do that which he has not, and most likely will not, be able to do. It is true that this forces the Board to exercise under § 10 (k) powers which are broad and lacking in rigid standards to govern their application. But administrative agencies are frequently given rather loosely defined powers to cope with problems as difficult as those posed by jurisdictional disputes and strikes. It might have been better, as some persuasively argued in Congress, to intrust this matter to arbitrators. But Congress, after discussion and consideration, decided to intrust this decision to the Board. It has had long experience in hearing and disposing of similar labor problems. With this experience and a knowledge of the standards generally used by arbitrators, unions, employers, joint boards and others in wrestling with this problem, we are confident that the Board need not disclaim the power given it for lack of standards. Experience and common sense will supply the grounds for the performance of this job which Congress has assigned the Board.

The Board also contends that respondent's interpretation of § 10 (k) should be avoided because that interpretation completely vitiates the purpose of Congress to encourage the private settlement of jurisdictional disputes. This contention proceeds on the assumption that the parties to a dispute will have no incentive to reach a private settlement if they are permitted to adhere to their respective views until the matter is brought before the Board and then given the same opportunity to prevail which they would have had in a private settlement. Respondent disagrees with this contention and attacks the Board's assumption. We find it unnecessary to resolve this controversy for it turns upon the sort of policy determination that must be regarded as implicitly settled by Congress when it chose to enact § 10 (k). Even if Congress has chosen the wrong way to accomplish its aim, that choice is binding both upon the Board and upon this Court.

The Board's next contention is that respondent's interpretation of § 10 (k) should be rejected because it is inconsistent with other provisions of the Taft-Hartley Act. The first such inconsistency urged is with §§ 8 (a) (3) and 8 (b) (2)<sup>24</sup> of the Act on the ground that the determination of jurisdictional disputes on their merits by the Board might somehow enable unions to compel employers to discriminate in regard to employment in order to encourage union membership. The argument here, which is based upon the fact that § 10 (k), like § 8 (b) (4) (D), extends to jurisdictional disputes between unions and unorganized groups as well as to disputes between two or more unions, appears to be that groups represented by unions would almost always prevail over nonunion groups in such a determination because their claim to the work would probably have more basis in custom and tradition than that of unorganized groups. No such danger is present here, however, for both groups of employees are represented by unions. Moreover, we feel entirely confident that the Board, with its many years of experience in guarding against and redressing violations of §§ 8 (a) (3) and 8 (b) (2), will devise means of discharging its duties under § 10 (k) in a manner entirely harmonious with those sections. A second inconsistency is urged with § 303 (a) (4) of the Act<sup>25</sup> which authorizes suits for damages suffered because of jurisdictional strikes. The argument here is that since § 303 (a) (4) does not permit a union to establish, as a defense to an action for damages under that section, that it is entitled to the work struck for on the basis of such factors as practice or custom, a similar result is required here in order to preserve "the substantive symmetry" between § 303 (a) (4) on the one hand and §§ 8 (b) (4) (D) and 10 (k) on the other. This argument ignores the fact that this Court has recognized the separate and distinct nature of these two approaches to the problem of handling jurisdictional strikes.<sup>26</sup> Since we do not require a "substantive symmetry"

<sup>24</sup> 29 U. S. C. §§ 158 (a) (3) and 158 (b) (2).

<sup>25</sup> 29 U. S. C. § 187 (a) (4).

<sup>26</sup> *International Longshoremen's Union v. Juneau Spruce Corp.*, 342 U. S. 237.

between the two, we need not and do not decide what effect a decision of the Board under § 10 (k) might have on actions under § 303 (a) (4).

The Board's final contention is that since its construction of § 10 (k) was adopted shortly after the section was added to the Act and has been consistently adhered to since, that construction has itself become a part of the statute by reason of congressional acquiescence. In support of this contention, the Board points out that Congress has long been aware of its construction and yet has not seen fit to adopt proposed amendments which would have changed it. In the ordinary case, this argument might have some weight. But an administrative construction adhered to in the face of consistent rejection by Courts of Appeals is not such an ordinary case. Moreover, the Board had a regulation on this subject from 1947 to 1958 which the Court of Appeals for the Seventh Circuit thought, with some reason, was wholly inconsistent with the Board's present interpretation.<sup>27</sup> With all this uncertainty surrounding the eventual authoritative interpretation of the existing law, the failure of Congress to enact a new law simply will not support the inference which the Board asks us to make.

We conclude therefore that the Board's interpretation of its duty under § 10 (k) is wrong and that under that section it is the Board's responsibility and duty to decide which of two or more employe groups claiming the right to perform certain work tasks is right and then specifically to award such tasks in accordance with its decision. Having failed to meet that responsibility in this case, the Board could not properly proceed under § 10 (c) to adjudicate the unfair labor practice charge. The Court of Appeals was therefore correct in refusing to enforce the order which resulted from that proceeding.

*Affirmed.*

<sup>27</sup> See *N. L. R. B. v. United Brotherhood of Carpenters*, *supra*, at 170-172. The Rules and Regulations adopted in 1947 by the Board provided that in § 10 (k) proceedings, the Board was "to certify the labor organization or the particular trade, craft, or class of employes, as the case may be, which shall perform the particular work tasks in issue, or to make other disposition of the matter." (Emphasis supplied.) 29 CFR, 1957 Supp., § 102.73. This rule remained in effect until 1958.

## Modern Liza



January, 1961

## FLSA Amendments Again Pending

### "Small Area" Stations Exclusion Proposed

One of the pending bills, held over from the 86th Congress, is known as S. 3758, the "Fair Labor Standards Amendments of 1960." The Report of the *Committee on Labor and Public Welfare* to the Senate was ordered printed on July 27, 1960 and was submitted by Senator Morse (for Senator Kennedy) along with the views of the minority of the Committee (Senators Goldwater, Dirksen and Brunsdale).

Less than a half-page of the some 96-page report deals with the subject of "Small Area Broadcasters." It reads as follows:

"The bill provides an exemption, in section 13(b) (10) of the act, from the overtime requirements but not from the minimum wage requirements, for any employe employed as an announcer, news editor, or chief engineer by a radio or television station which has its major studio in a city or town of not more than 50,000 population, according to the latest decennial census, provided that the city or town is not located within a "standard metropolitan area" with a total population in excess of 50,000, as defined and designated by the Bureau of the Census.

"The exemption is specifically limited to those employes who are employed primarily in the named occupations, although such employes may engage in related activities, including the sale of broadcasting time for the broadcasting company by which they are employed, as an incident to their principal occupation.

"The exemption does not affect the status under the act of other employes employed by such broadcasting companies, nor does it affect the employes employed in the named occupations in broadcasting companies not specifically included within the terms of the exemption."

The Minority comment on this proposed exemption is doubly interesting—very short and terse, the three dissenting Senators oppose the exemption in these words: "The bill also exempts many radio and television station employes if they work in marketing areas of under 50,000 persons. No exemption conditioned upon the size of the town which it serves is granted to any other industry."

For this or for any other reason, the IBEW and the AFL-CIO opposes exemption of any worker from minimum wage and overtime standards. If the margin of any enterprise is based upon wages below the present or the proposed FLSA minima, there can be little or no reason for its continuing existence. If our readers agree with this position, in whole or in part, the members of the Congress should be made aware of it.

# North Dakota TELECRUISER



**MEMBERS OF LOCAL 1240  
ROAM TRI-STATE AREA  
FOR NEWS, COMMERCIALS,  
AND SPECIAL EVENTS**

**T**HE large blue and white bus pulled into a farm yard near Amenia, North Dakota. It rolled to a halt near the large house. A stately-looking gentleman stepped from the house just as the door of the bus opened. An announcer on the staff of KXJB-TV in Fargo stepped down from the bus and said, "Hello, Mr. Guy, all set?"

The announcer was speaking to Bill Guy, then campaigning for the governorship of North Dakota and now Governor. He was all set and ready to make a videotape recording to be broadcast to the people of North Dakota over the North Dakota Broadcasting Company stations the following evening.

This is just one example of the many things done by the crew and the versatile Video Tape Telecruiser of the North Dakota Broadcasting Company in recent months. In addition, it had traveled throughout the tri-state area of North and South Dakota and Minnesota recording commercials and shows and performing many public service functions including a locally produced show on KXJB-TV, Channel 4 called *Report to North Dakota*. One particular program reported on the inside story of the state hospital at Jamestown. The bus has also been called upon to record the visits of such famous persons as Vice President and Mrs. Richard M. Nixon and President-elect Sen. John F. Kennedy.

In keeping with its role as the busiest vehicle in the company fleet, the bus while not traveling, is connected to the KXJB-KXGO-TV control rooms through the use of cables so that its Ampex recorder can also be used in the studios.

The Telecruiser itself, weighing 20,000 pounds, is 33 feet long and 8 feet wide and contains a neatly aligned control room which houses a complete audio console, tape-splicing facilities plus storage space for new and recorded tapes and spare parts. The back section holds a 15 Kilowatt generator plus coil-type cable

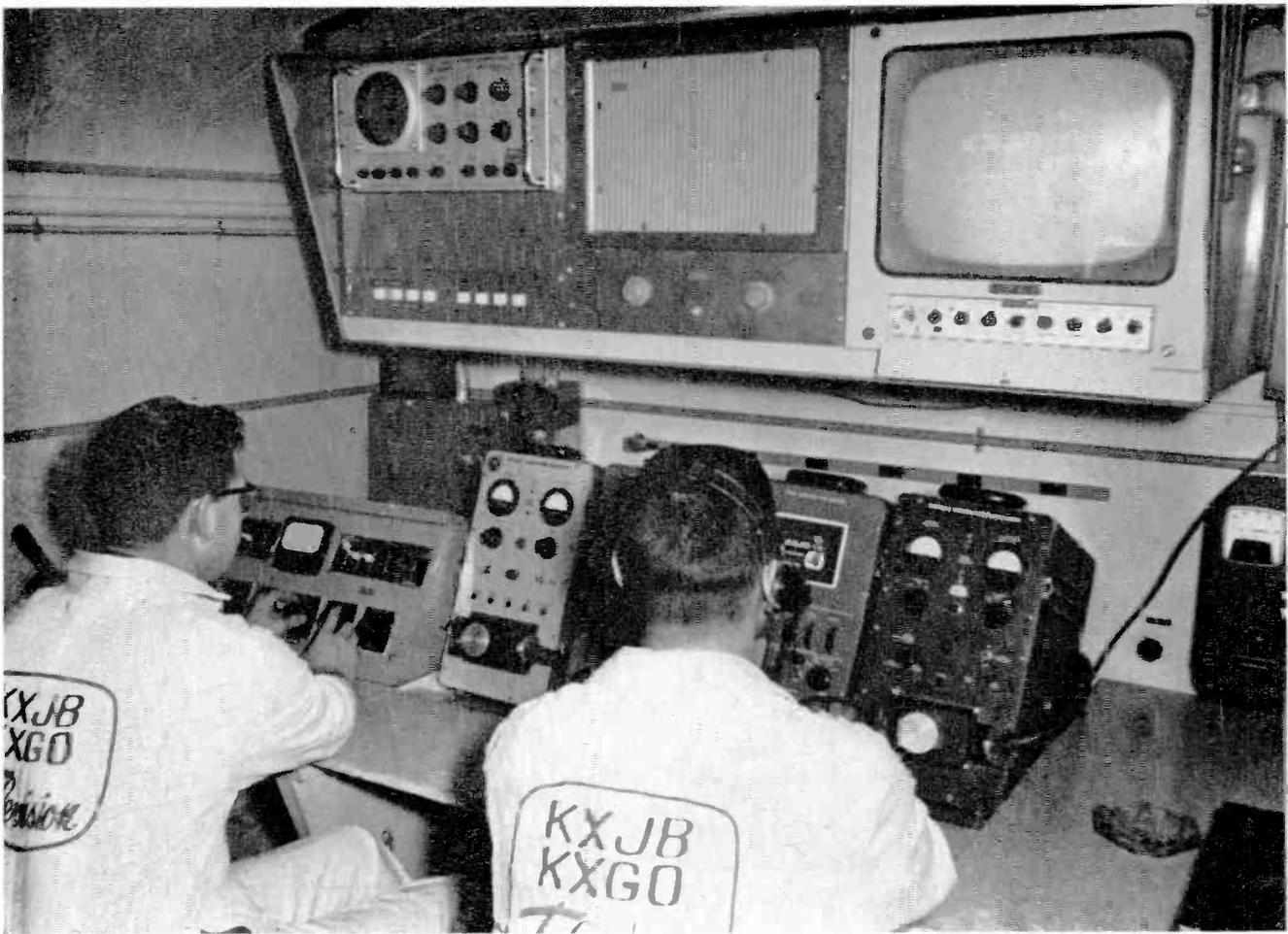


Taping Supervisor Rich Smith and Control Room Supervisor Jerry Desotel make routine tests on the Ampex recording unit.

drums and an air-conditioning compressor. The total cost of the bus and the equipment it contains comes to approximately \$90,000.00.

The North Dakota Broadcasting Company Stations believe that the KX Telecruiser, the most complete mobile unit of its kind between Chicago and the West Coast, has been and will continue to be one of its most invaluable assets.

The operating engineers of the NDBC Stations are active members of IBEW Local 1240.



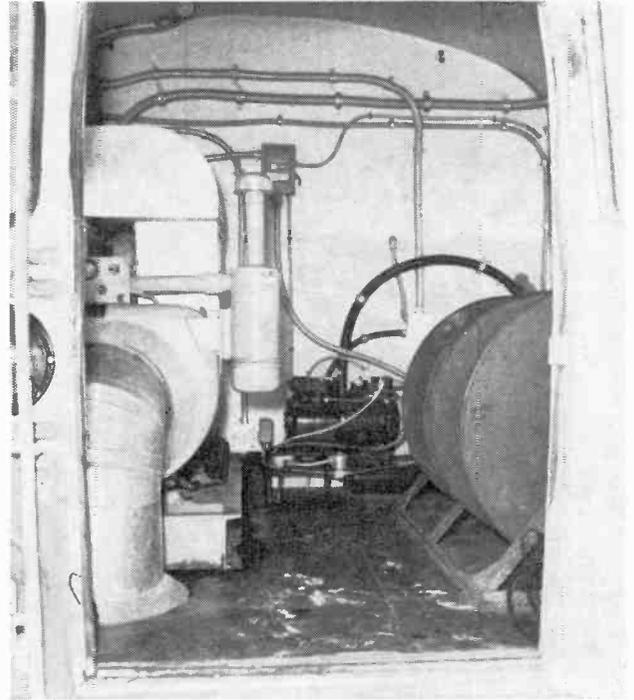
ABOVE: Smith and Desotel frequently find themselves at these controls while taping various shows for KXJB-TV and KXGO-TV.



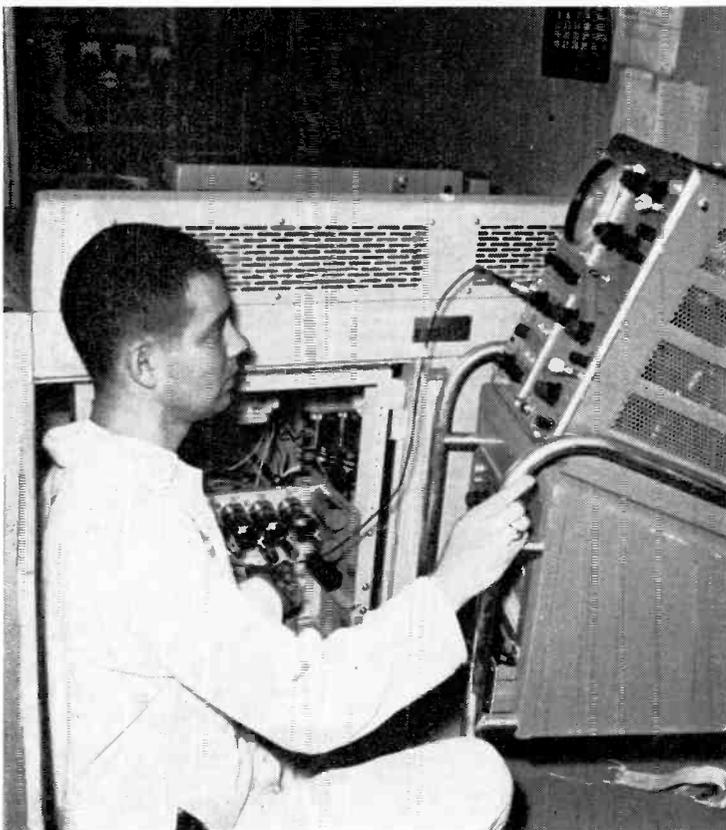
LEFT: The view from the control panel, forward. The recorder, like all the cruiser equipment, is permanently installed. For supplementary studio use, cables are run from cruiser to studio.



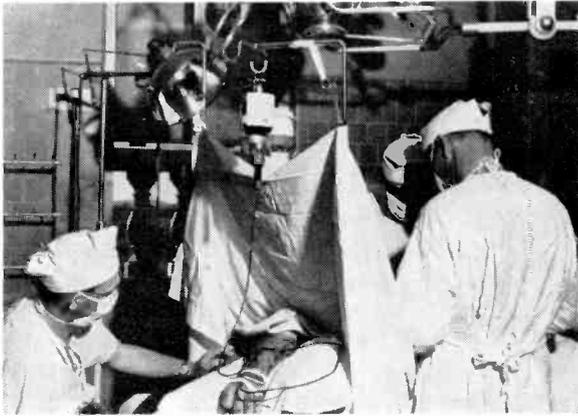
Rich Smith, having completed a program taping, prepares to edit the tape.



ABOVE: The rear section of the telecruiser, which houses the 15 KW power unit that makes the cruiser completely mobile. To the right is the air-conditioning unit.



LEFT: Control Room Supervisor Desotel checks a power supply for ripple.



## Rising Hospitalization Insurance Fees

*Be Sure You Don't  
Contribute to Cost Increases*

**T**HERE is a growing suspicion that the “unnecessary use” of prepaid hospital and medical care is contributing to the steady increase in insurance rates. Premiums collected by insurance companies and Blue Cross, Blue Shield plans now run close to six billion dollars per year compared to approximately 1.6 billion in 1949. A great part of this increase is due to the number of persons covered; more than 128 million are covered now, compared with 66 million ten years ago. Also, coverages extend far beyond those of ten years ago—the range of medical service now available is obviously greater. Nonetheless, the insurance itself is becoming increasingly expensive. Blue Cross in New York City now has a premium of \$8.22 per month per family, compared to \$3.56 per month in 1955. Seattle has boosted its family rate to about \$15.75 a month from \$11.35 very recently. The rates in Maryland went up 17.9% just two months ago.

Maryland's insurance commissioner rejected Blue Cross' request for a 22.4% rate hike and declared that if unnecessary hospital use was reduced through the cooperation of the Blue Cross, doctors and hospitals, it would save the state's subscribers more than one million dollars per year. He reduced the rate increase sought by the Blue Cross after he examined the results of its survey of 222 doctors interviewed by Opinion Research Corporation. More than three-fourths of the doctors believed hospital facilities are sometimes used in an unnecessary or uneconomical manner. About 80% reported that they had patients who requested hospitalization when it wasn't necessary and 11% of the doctors said that 1/5 or more of their hospitalized patients are admitted for diagnostic procedure that could be performed in a doctor's office or through hospital outpatient service. About 1/3 of the doctors said that unnecessarily prolonged hospital stays are “frequent.”

While not typical, there was a report of a San Francisco couple who were invited to a weekend house party but couldn't locate a baby sitter for their two children. They solved the problem with the help of a friendly physician. The children were put in a hospital, ostensibly for treatment for alleged “upper respiratory

ailments.” Blue Cross caught up with this one; instead of paying the bill, Blue Cross challenged it and the parents had to pay nearly \$95.00 for their baby sitter services. The United Steel Workers Union's Director of Pension and Benefits, John F. Tomayko, said recently that “our people are being sent to the hospital too often, kept there too many days and have too many operations. We feel that under these insurance programs, we have been handing a blank check to doctors and hospitals.” Prudential Insurance Company, one of the nation's largest health insurance underwriters recently reported that the number of admissions to hospitals per 1,000 persons covered by insurance by 1957 had reached 130, compared to only 103 in 1950—an increase of 26%.

Efforts have been made in different parts of the country to remedy this problem. A program launched two years ago by the Associated Hospital Service of Philadelphia set up a Physicians' Review Board to study the problem and to screen questionable claims. The Board consists of 36 physicians, generally regarded as among the leaders of their profession. Once each month the groups convenes and divides into six or seven examining boards to consider questionable claims.

In 1959, the first full year of its work, the Board went into more than 1,073 cases referred to it by Blue Cross and involving 708 doctors in the Philadelphia area. The Board advised Blue Cross not to pay the bill in 563, or 52% of the cases, contending that hospitalization was not properly required under the Blue Cross contracts. The worst offenders were three doctors who each had six rejected cases.

In the first half of 1960, the Board reviewed 861 cases and rejected 59% of them. One of the Board's spokesmen said that if you judge their accomplishments by the number of rejections made, not too much is proved. But looking at it from the point of view of the influence it has had on doctors generally, it can be said they are making a lot of progress.

The hospitals, the doctors and everyone connected with hospitalization—including the patients—must share the blame for these rising costs. It's everybody's problem.

# CHANGES IN THE SOCIAL SECURITY RULES

*Last year, Congress made changes in the Federal Social Security Law. The following questions will help to explain the new regulations.*

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**Question:** What were the major changes in the 1960 Amendments in the old-age, survivors, and disability provisions of the Social Security Act?

**Answer:** Disability benefits can now be paid at any age; amount of social security credit required to get benefits was reduced about one-third; most beneficiaries can earn more after 1960 and still get some benefits; survivors of insured workers who died before 1/1/40 and after 3/31/38 may now receive monthly benefits; some children of deceased parents will have their benefit amounts raised; dependent widowers of women who died before September 1950 may now get benefits; parents who work for sons or daughters (except household or non-business work) may get social security credits beginning in 1961; clergymen who failed to file waiver for social security credits may do so any time before 4/15/62.

**Question:** What does the removal of the age 50 requirement for disability benefits mean?

**Answer:** It means that a disabled person who has five years of social security credits out of the ten years before becoming disabled may be paid his social security benefits regardless of his age. His minor children and qualified wife may also be paid benefits based on his earnings record.

**Question:** I had my social security record frozen under the old disability freeze provisions. What should I do now?

**Answer:** If you have not received a letter from your social security office by October 31, asking you to file your new claim for monthly benefits, then contact that office for information about applying for cash benefits.

**Question:** When do disability benefits for people under 50 begin?

**Answer:** The first checks will be for November 1960.

**Question:** What change was made in the amount a social security beneficiary may earn and keep all his social security checks for a year?

**Answer:** A person earning over \$1,200 per year will still have some deductions made from his benefits. However, instead of making the deductions by holding up entire checks for one to twelve months of the year, \$1 will be held out for each \$2 of earnings between \$1,200 and \$1,500 in the year, and \$1 for each \$1 of earnings over \$1,500. For example, if a husband and wife are getting \$150 per month, they will still get at least \$650 in benefits even if the husband earns \$2,500 in the year. For full details as to how much you may earn and still get some benefits, write your social security district office. All beneficiaries will still get a full month's benefits for any month in which earnings are less than \$100, no matter how high the annual total.

**Question:** How was the required time to become insured shortened?

**Answer:** Before, you needed social security credits for a period equal to one-half the time after 1950 (or age 21 if later) and before retirement age (62 for women, 65 for men) or death. Now, you need have credit for only one quarter of work under social security for each three calendar quarters between 1950 (or the year you reached age 21) and the year in which you reach retirement age or die. If you reach retirement age before 1957, you need only six credits (1½ years) to be fully insured. You will need 2¼ years of credit if you reached retirement age in 1958, 2½ if in 1959, 3 if in 1960, 3¼ if in 1961, etc.

**Question:** My claim was turned down last year because I had credit for only 11 of the needed 17 quarters. Can I now collect my social security?

**Answer:** Yes. You should apply again as soon as convenient for you to contact your social security office, or a representative of that office when he is in your community.

# The 1961 WORKING CARDS

*...look for them  
...respect them*

THE journeyman's working card is his passport to better jobs and fair working conditions. It identifies him as a skilled craftsman, equipped to perform the tasks covered by the scope of the card's jurisdiction.

Many local unions print and distribute their own working cards to their members. Others order theirs from the International Brotherhood Headquarters in Washington. In either case, such a card duly signed by the financial secretary, along with a record of dues payment, usually shown on the reverse side of the card, is recognition for the man entering a job area where the members of other unions are employed.

At right are copies of four of the IBEW working cards issued for 1961 by the Washington Headquarters. They cover broadcasting and recording technicians and related sound and service technicians. A new card in the group is the second from top—that of the Intercommunication and Sound Technician.

If your local union secretary has not yet ordered a supply of cards for the new year, now is the time for him to place that order.

Let's keep our working cards up to date and respect them—honorable symbols of a respected organization.

1  
9  
6  
1

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO**

LOCAL UNION NO. \_\_\_\_\_ CARD NO. \_\_\_\_\_

*is a member of this Local Union in good standing for the period shown on the reverse side hereof,*

F. S. \_\_\_\_\_

**WORKING CARD**

**RADIO, TELEVISION, AND RECORDING DIVISION**

FORM 59

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I.B.E.W.  
AFL-CIO

**International Brotherhood of Electrical Workers**

LOCAL UNION NO. \_\_\_\_\_



**Intercommunication and Sound Technician  
1961 Working Card**

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I.B.E.W.  
AFL-CIO

**International Brotherhood of Electrical Workers**

LOCAL UNION NO. \_\_\_\_\_



**TELEVISION SERVICE TECHNICIAN  
1961 Working Card**

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I.B.E.W.  
AFL-CIO

**International Brotherhood of Electrical Workers**

LOCAL UNION NO. \_\_\_\_\_



**1961 Working Card  
APPLIANCE SERVICE TECHNICIAN**

## Winter's Worst Weather Plagues Inaugurations



## THE GUESTS DANCED IN HEAVY COATS FOR GENERAL GRANT

**T**HE chilly specter of polar weather hovers over every presidential inauguration.

From 1789 through 1957, the United States has witnessed 43 investitures, about half of which have taken place in snow, rain, numbing cold, or piercing wind, the National Geographic Society recalls. Some ceremonies have had to be moved indoors.

The weather outlook for mid-January is always uncertain, to say the least, and this time it is downright discouraging. For the period of January 20, the 1961 *Old Farmer's Almanac* mutters, "Watch this storm." The *Hagerstown Town and Country Almanac* flatly predicts, "Rain or snow."

Before 1937, inaugurations were held on the 4th of March, also a notably erratic month.

Rugged James Monroe was the first President who entered office in inclement weather. Paradoxically, a Senate-House squabble over seats caused his first oath-taking to be moved from within the Capitol to the East Portico, setting the precedent for outdoor ceremonies there; an outpouring of snow and rain transferred his second inauguration back into the Hall of Representatives.

When Andrew Jackson stalked down Pennsylvania Avenue to the Capitol for his big day in 1829, traces of snow lingered on the ground. Slush did not deter the crowds. So many people blocked entrances to the Capitol that Old Hickory clambered over a wall and entered through a subbasement.

A generous blanket of snow beautified Washington for Jackson's second inauguration, but the temperature was 11 degrees. Afterward he hastened home and went straight to bed.

William Henry Harrison, at 68 the oldest President ever invested, also was the first to die in office. The tragedy was directly due to inaugural weather—icy blasts

and torrential rain. Stubbornly refusing either to wear an overcoat or ride in a closed carriage, the dignified old gentleman proceeded down Pennsylvania Avenue to the Capitol on a splendid white charger. Unprotected from the elements, Harrison spoke for one hour and 45 minutes. A month later to the day, he died of pneumonia.

Despite the Harrison calamity, James Polk delivered his inaugural four years later in a driving rain. Inexplicably, Mrs. Polk carried a fan.

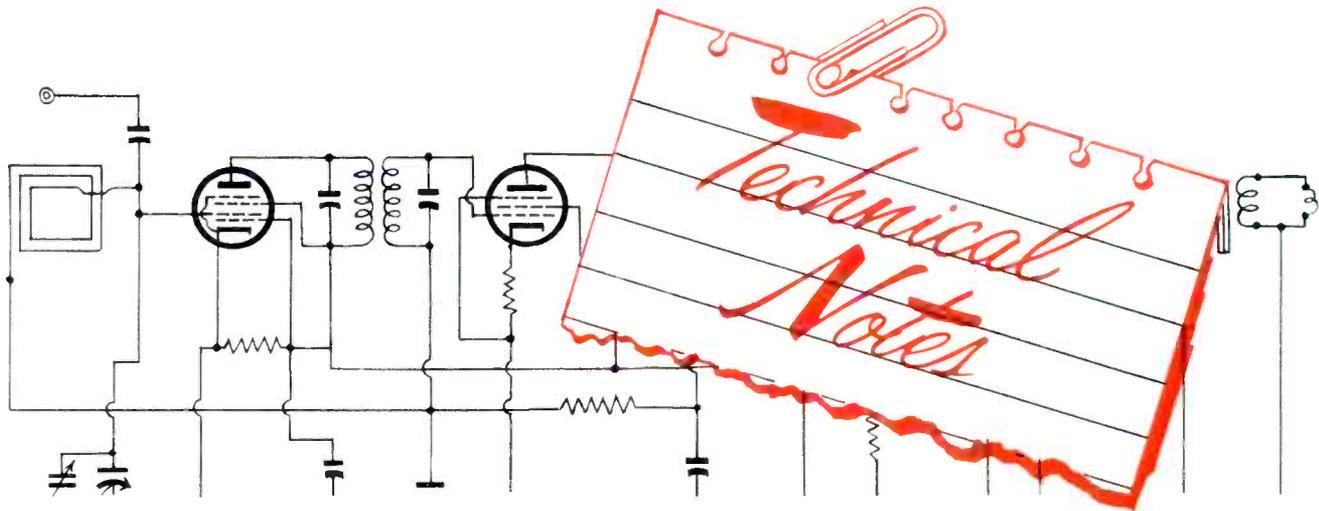
Tragedy struck again at the windswept, bitterly cold inauguration of Millard Fillmore: his frail wife became ill and died within the month. An easterly wind, chilled by melting snow, buffeted ramrod-straight Franklin Pierce the day he was sworn in. Abraham Lincoln's second was stormy.

Ulysses Grant's second inauguration excels all others in misery. The temperature was courting zero. West Point cadets fell senseless from the cold. Later, guests at the Inaugural Ball danced in heavy coats to keep from freezing. And the champagne did—quite solidly.

James Garfield braved heavy snow, strong winds, and damply penetrating cold; James Harrison, torrential rains; Grover Cleveland, much rain and snow; William McKinley, a downpour; William H. Taft, a howling blizzard.

Disagreeable weather also ushered Woodrow Wilson and Herbert Hoover into office; it dampened the first two inaugurations of Franklin D. Roosevelt. The third, held at the South Portico of the White House, was accompanied by snow, low temperature and, immediately afterward, sleet. Harry S. Truman's was sunny but extremely cold.

For Dwight D. Eisenhower's second inauguration, the sun managed to break through early rain and clouds. Nonetheless the President caught cold.



## WWV/WWVH Signal Change

On January 1, 1961, the National Bureau of Standards retarded the time signals broadcast from radio station WWV and WWVH by 5 milliseconds and at the same time resumed broadcasting on WWV a special timing code which gives the day, hour, minute, and second (UT) coded in binary form. The 5-millisecond retardation brought the time signals of WWV/WWVH into closer agreement with other standardized frequency broadcasting stations throughout the world. The pulse timing code, tried out on an experimental basis for several months during 1960, has now been returned to the air on a permanent basis.

The United Kingdom and the United States began coordinating their time and frequency transmissions early in 1960.

Coordination was begun to help provide a more uniform system of time and frequency transmissions throughout the world, needed in the solution of many scientific and technical problems in such fields as radio communications, geodesy, and the tracking of artificial satellites.

Participating in the project are the Royal Greenwich Observatory, the National Physical Laboratory, and the Post Office Engineering Department in the United Kingdom, and, in the United States, the U. S. Naval Observatory, the Naval Research Laboratory, and the National Bureau of Standards.

## Cold-Solder Joint

The National Bureau of Standards, in a project sponsored by the Air Force, has been studying the use of gallium-based alloys as bonding materials. These alloys are soft when mixed at room temperature, but resist temperatures as high as 900° C after hardening. G. G. Harman has found that they can be used to fasten wires to heat-sensitive electronic devices, such as transistors, and to "cold solder" ceramic and metallic surfaces.

Like mercury, gallium will combine with many metals to form dental-type alloys which are soft at the time of mixing, and which harden after from 2 to 24 hours. These alloys were originally studied by the Bureau's dental research laboratory for use in dental restorations, but this use was discontinued when it was found that food would tarnish the alloys. Research by the Bureau's electron devices laboratory indicated that the physical and electrical properties of gallium-based alloys would make them useful as bonding materials in electronic devices. Because the heat required in soldering operations is often sufficient to damage delicate electronic components, gallium alloys were employed to make the necessary connections, and proved entirely successful. Some ceramic and metallic surfaces can also be "cold soldered" by incorporating a layer of alloy between the surfaces being fastened.

To form gallium-based alloys, weighed portions of liquid gallium (mp 29.9° C) and a finely powdered metal are thoroughly mixed in a Teflon beaker. After several minutes' mixing, during which the gallium "wets" the other metal, the alloy is ready for use.

## Computers Take Over

A computer can be "programed" or instructed to perform an astounding variety of assignments. Computers of the Social Security Administration keep track of perhaps 170,000,000 names involving \$2,000,000,000 in wages.

Computers have graded students' papers at the rate of 6,000 an hour. They have supplied missing words to the Dead Sea Scrolls, predicted Presidential elections, translated English into Braille, and transcribed 1,300 words a minute.

A computer at the University of Illinois, taught patterns of musical composition, quickly composed a four-movement piece. Another computer, programed to play checkers, learned in 20 hours to beat its instructor. Computers also play chess, and some scientists believe the world championship will someday be held by one.