

RADIO, TV and RECORDING

# TECHNICIAN-ENGINEER

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The INTERNATIONAL BROTHERHOOD of ELECTRICAL WORKERS

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 JOSEPH D. KEENAN International Secretary  
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## ... the cover

In this issue we report the actions taken at the Annual Progress Meeting of the Radio, Television, and Recording Division of the IBEW in New Orleans, last month.

The group in lower section of the cover are delegates from local unions at the meeting. We extend our thanks to Terry Gerstner of WDSU-TV for our cover picture and others in this issue.

The big outdoor sign we have vignetted above the group appeared prominently beside a New Orleans thoroughfare, as a welcome from a local advertiser.

## commentary

The following piece of information should erase any doubt that may linger in the mind of any union member as to whether he or she should contribute a dollar to COPE's fund raising drive:

Friends of Sen. Barry Goldwater (R-Ariz.), one of the most violently anti-union members of Congress who believes in a national "right-to-work" law, recently staged a "testimonial dinner" in his behalf. Anyone who wanted to testify as to the Senator's fitness for office had to kick in \$50.

The money will be used to help Goldwater—who is a millionaire, by the way—pay his campaign expenses when he runs for reelection next year.

As a result, Goldwater netted some \$60,000. That means that he received as much money in one night from a relative handful of wealthy persons as COPE would receive from 60,000 trade unionists who contribute to its Dollar Drive.

The Goldwater dinner points up an old lesson: Working people can never expect to match their wealthy opponents, and they don't have to. But unless these working men and women help finance campaigns for liberal candidates, the anti-labor few will out-elect them far too often. It's that simple.

## the 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 the 1956 figures:

May, 1957—119.6; May, 1956—115.4

June, 1957—120.2; June, 1956—116.2



Delegates to the Division Progress Meeting came from all parts of the nation. This is a view of a group assembled for a regular business session in the Roosevelt Hotel, headquarters for the meeting.

## ***REPORT***

# ***on the New Orleans PROGRESS MEETING***

**T**HE Sixth Annual Radio, TV, Recording Progress Meeting convened in the Roosevelt Hotel in New Orleans, La., on Friday morning, June 14. After being called to order International Representative Al Hardy introduced Brother Robert L. Grevemberg, vice president of Local 1139 who spoke as the Chairman of the Arrangements Committee of the New Orleans Local Union. He extended a welcome to the delegates and their wives and families and divulged the plans of the local union for an outdoor frolic on Friday afternoon and a banquet on the evening of the next day. Following his outline of the plans of the local union, Business Manager Don Simmons was introduced and received a round of applause as recognition of his presence and his official position—as well as being a very recent bridegroom.

An outline of the proposed agenda was presented, consisting of the current developments on the pending action of the FCC in the matter of

the remote control case, the recommended length of agreements in the industry, right-to-work legislation, the Celler report, legal developments in picketing cases, “A” and “BA” membership problems and 1 per cent clauses and a suggestion to the delegates that further subjects be brought up from the floor.

Immediately following, the AFL-CIO motion picture “Injustice on Trial”—a twenty-minute motion picture on the subject of “right-to-work” laws, was shown to the delegates and the wives attending. Following the showing of the motion picture, the wives and families were excused to sightsee in New Orleans and to form their own groups in order to get acquainted.

Printed information was distributed to the delegates, most noteworthy of which was a digest of NLRB decisions affecting broadcasting since the last Progress Meeting and several court decisions which have an overall effect on the in-

dustry, NLRB litigation—and for reference purposes for Saturday's session—which was primarily devoted to legal cases and legal problems.

A considerable amount of time was spent on the subject of current relationships which exist between the radio locals and the International Alliance of Theatrical Stage Employees. A long discussion of this subject followed and it appeared to be the consensus of opinion that the relationship of the two unions has continually improved since the Fall of 1956 and there appeared to be no reason why this relationship should not continue to improve. The most marked improvement has been noted in the Los Angeles area as the result of the IBEW's policy statement that those establishments which produce motion pictures for theatrical release are wholly and solely within the jurisdiction of the IATSE, except for the jurisdiction which has been traditionally that of Local Union 40 and the local unions which have an interest in new construction work.

A full and detailed report of developments at KPIX, San Francisco, was rendered the delegates. This situation, distorted and misrepresented by those having only partial knowledge of the facts and by those having an ax to grind, was shown to be considerably different from the picture painted by a competitive union. The pitfalls of half-truths and distortions were never more eloquently evident than in this case.

Very nearly all of the second day's session was devoted to legal problems. Following General Counsel Sherman's discussion of broadcasting cases—both NLRB and court—a question-and-answer period took place. (See the more specific report in this issue.) This session, as has been the case in all Progress Meetings, proved to be the highlight of the New Orleans meeting.

The proceedings of the third day began with a reading of parts of the Celler report. The Committee on the Judiciary, of the House of Representatives, authorized the Antitrust Subcommittee to conduct studies and investigations of the television broadcasting industry. Released on March 13, 1957, the report of the Subcommittee is informative, interesting and recommended reading. (See excerpts, in this issue.)

The third day closed with the reports and remarks of International Secretary Keenan and International Treasurer Sullivan. The Sunday session ended with the announcement that the next Progress Meeting will be held in Cleveland, Ohio on the two days previous to the International Convention, in September of 1958. Upon the observance of a note of warm thanks to Local Union 1139 for its generosity and hospitality, the meeting was formally adjourned.

*Address by Joseph D. Keenan, International Secretary, I.B.E.W., to the Sixth Annual Progress Meeting of Radio, TV and Recording*

## **FIELDS FOR**

**B**ROTHER HARDY, International Treasurer Sullivan and delegates to this conference, I assure you it is a pleasure for me to come here today and meet with one of the very important branches of our industry; namely, the radio and television division. First of all, I want to bring you the greetings of Gordon Freeman, who as I told you last night, is attending a meeting of the ILO in Geneva. He regrets not being able to be here and I will try as best I can to pinchhit for him and make a report for both of us.

I might start with the future as I see it, as far as our industry is concerned. During my experience with the War Production Board they had to search out different companies and when considering them for contracts they wouldn't rely entirely upon the companies' reports. One of the media they used was a record of their consumption of power. Still today, this is one of the yardsticks used generally. In 1939 in this country, we generated 39 million kilowatts; in 1956, we generated 117 million kilowatts and in this year of 1957 they expect to put in place an additional 9½ million kilowatts at a cost of about \$400 per kilowatt. That means that in the last 15 or 16 years we have increased our power consumption three times and in the next 10 years, according to the utility industry we will increase our production from 125 million kilowatts to 350 million kilowatts. It is estimated today that the utility companies of this country will spend four billion dollars per year for the next 10 years. That doesn't count the money that is going to be spent in developing atomic energy plants by utilities. The point I want to make here today is that in 10 years we will double the consumption of electrical power in this country and that means that we will duplicate all of the facilities using electricity in this country in that period. So far as we are concerned, our industry has one of the greatest futures of them all and it will cut across every branch of our International Union.

### **Manufacturing Expansion**

Possibly our greatest field for expansion is in the manufacturing industry. We have in the IBEW today about 1,000 plants. A survey was made just recently

# EXPANSION

and it was estimated that there are 1,000 plants in this country that are not organized and should be organized by the I. B. of E. W. I don't know just how many people that will add to our membership but I suppose it would be well over a million. I heard the discussions here, back and forth, on the subject of closed circuit television; this is just one of the many, many new creations as far as electrical energy is concerned. There are new guided missiles and we have all of the supersonic equipment that is being used in the military and which today amounts to one of the largest single appropriations as far as defense requirements are concerned. In 1941, the dollar value of the electronic business, that's including radio, TV and whatever electronics they had at that time, totalled 350 million dollars a year. In this year of 1957 there will be 9½ billion dollars spent for electronic equipment in military, industrial and commercial enterprises. In my experience with the War Production Board we started out in 1941 with an appropriation for electronics of 200 million dollars. By 1944, the appropriations were second only to aircraft. I believe that is the case today. In this particular guided missile field and in the other supersonic devices, the type of mechanic and person to build and operate is almost fantastic. I have had some experience in the last few years working out arrangements as far as the Niki sites are concerned. Today because of the scare throughout the world they have had to build three or four times more than the original program of about 4 or 5 years ago. Just recently Gordon had some people in the office; they now have a single control for the operation of these Niki areas and the International Business Machines is a firm that was set up to synchronize this whole operation. We install the individual units and then the IBM comes in and puts in their equipment and there are 64 people working full time on the maintenance and the operation of these controls. It is our hope very shortly to carry on a campaign in this all important field. One of the most important areas for the making and the manufacturing of this equipment is Southern California. For some reason it is closely related to the airplane industry and nearly all of the large airplane companies in this

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SECRETARY KEENAN

country have now established as a by-product, their guided missile and their supersonic factories and although aircraft is organized pretty nearly 100 per cent, the guided missile and the other supersonic devices are practically completely non-union.

The next important industry is your own, TV and radio. In this field, Al Hardy is the director. Here again is an industry that is expanding. I have some figures here, showing that just this year television alone will become a billion dollar industry. Radio is at a half-billion figure and today I suppose that the production of television is off from 1956 but they tell me that 97 per cent of the homes in the United States have radios and that well over 50 per cent have TV. In this whole scheme of things, your industry will get the benefit of this increase in power consumption as well as all of the rest.

## Training Programs

I listened this morning to discussion of another important phase that Gordon has already started on. That

has to do with training. Recently Fred Irwin was relieved of his duties as Treasurer and Jerry Sullivan took his place, and Gordon, who has been quite concerned about training, has set up a committee composed of Bill Damon of the contractors, Jimmy Noe of the Research Department and with Fred Irwin heading it up. This committee is to try to develop training programs in the journeyman field in trade unions and all of the related branches. I am quite concerned about training myself. About a year ago, I attended Vice President Harbak's Progress Meeting and Charlie Foehn came in a little bit late. He sat down alongside of me and started to explain why he was delayed. He said they had a Western Electronic show and they had taken all of the facilities of the auditorium and that they had also brought in a big circus tent in order to take care of the overflow and advised that I ought to go out and look this thing over. I did, and the first place we stopped was at a Univac machine that was developed for the airplane industry. It is almost beyond anyone's comprehension as to what this particular machine would do. They would put in a set of figures; they could get the strains and stresses on the wing structure, they could get the flying conditions and a number of other things and not have to put a single mark of a pencil on a drawing board. We started talking to these young fellows and I know something about Ohm's Law, but they don't speak in terms of Ohm's Law today. Then they took us around to show us this equipment. They took me back to the heart of the operation—a panel behind it. There I was just flabbergasted as to the wiring, its amount and what it meant as far as electrical work is concerned. We visited a number of other operations and in one of the demonstrations was a closed circuit television show—headquartered at the Mark Hopkins Hotel. They had a branch at the Palace, a branch at the St. Francis and they had a branch right in the auditorium. We then visited a number of other operations and I came to the conclusion that if our International union was to meet its requirements, we had better start to think in terms of what is happening in 1956 and 1957 and forget about what happened in 1930 and 1931. If we want to get the work that belongs to us, then we have to consider something more than our apprentice training and the training that we have used for years. On my way home I stopped in Chicago where my son works in the electrical field and he said: Dad, I want you to come out to the amphitheatre in the morning, I want you to see something. It seems that the tool manufacturers of the United States gave to the stockyard company a sum of money to build a 15 hundred foot addition to the amphitheatre and once every four years they give a live demonstration of the tools manufactured by the companies throughout the United States who are members of this association. We went out to see some of

these tools and there were three or four that intrigued me. One a girl controlled from a microphone that she talked into and as she whispered, she could regulate the tool that was doing the cutting. If she whispered into the microphone it would take a thin cut, if she talked a little louder it would take a deeper cut, if she hollered into it, it almost jammed the machine. They had other machines—they automatically started a drill press and if the metal got too hard, it would automatically kick out the drill and fit a drill that would match the hardness of the metal they were trying to drill. In going through there I found that some of these machines had as much as 10 miles of wire!

Back in Washington a few days later we saw an article in the paper in which a headline in the *Wall Street Journal* suggested that automation is out-automating itself. I read the article and found out that IBM, Burroughs Adding Machine, Remington Rand, and three or four more went out and took contracts to build these Univacs; had their engineers, designers and physicists and the group look over a situation and they would come back, design and build it and return to direct the installation. They would then put the thing in operation and leave it, go and take on another contract.

When these machines break down and they have no maintenance, it was then necessary for them to set aside their job, come out and put the one they formerly installed in shape. Gordon sat down and wrote a letter to all of these firms pointing out that we had an organization, that we were set up to do this kind of job and we would like to try to work out some arrangement where we could send members to their factories to study their equipment, then we would have them on standby in cities throughout the country to help those firms that might get a maintenance contract for this type of installation. There was only one firm that answered, that was the IBM. We met with them in their office in Washington and I am sure that they felt we had a motive, we had a plan for organizing their plants, which wasn't our intention at all. We were sincere, we talked to them about setting up a program for 10 or 12 or 15 weeks, when we could go in and study their equipment. We were willing to pay the expense, the wages and the keep for those people in order for them to get that training—but we made no impression. Just recently we had a meeting in Washington in which all the International unions having people in the Atomic Energy field attended. This meeting was for the purpose of building up safety regulations for those that work in that field. During the two or three days of the meeting, there were physicists, there were professors, there were engineers and there were government representatives of the Atomic Energy Commission. They were all concerned about a gap that is now becoming serious. That gap is the one between the journey-

men and the graduate electrical engineers and there are plenty of jobs that are just beyond the journeymen but not quite up to the necessities of an engineer and we thought about it, Gordon and I and Irwin and the contractors. We thought that it may be possible for us to work out a program in the industry where everyone could be considered, of trying to reduce an engineering course down to something like the period that the government used to make officers during World War II. As you know, they took the West Point Program and the Annapolis Program and were able to condense it down to about 16 or 17 weeks. They made officers who showed up and performed just as well in any of the emergencies as the graduates of West Point and Annapolis. I think that here is a field (this will be for all branches because it will affect all branches) where we can get the employers and our unions to meet the cost if we can work out with some universities a program where they can condense this to a 50- or a 60-week period. We have to do it and we want to maintain our position as far as the electrical field is concerned. Also, we have to start to think in terms of apprenticeships. We have been a little bit careless about bringing apprentices into our union. We try to hold them back and there is somewhat of a fear that maybe if we take on too many of these fellows, there will be unemployment and maybe they will get the existing jobs. Such fears are the result of thinking in terms of the 1930's. We have to throw that all out the window and start thinking in terms of 1956 and 1957 in all branches because it is a changing industry, changing by day, and if we can't have the young people who can pick up and get in step with the changes we are going to be left behind. That is the case all across the I. B. of E. W. In every area there are changes, great changes and we have to be careful to have the people to keep up with the changes.

### Research Activities

I have previously said something about the Research Department; the Research Department happens to be the housekeepers and does the programming in conjunction with the President as far as research is concerned. We have a complete listing accumulated of contract wage analysis in almost every branch of our International and we have recently taken on a fellow that has spent many years in industry who has specialized in time study and job evaluation and he is there for your consideration. If you get into a problem of time study or job analysis he is there to help you. We also have a fellow on piece work and things of that kind. They are there and you can have them if you come into the kind of situation where some of these large firms want to come up to date and they want to start trying to put some value on jobs. Then finally, as I said, we have nine surveys showing the wages paid to our members in

all branches of the electrical and electronics industries.

Now I will try to give you a report as to my own office, as I told you, too, a couple of years ago that the most important part of any International union is its membership and its finances. First of all, I would like to go into membership statistics. As of January 1, 1957, we had a total membership of 689,787. In the year of 1956, we organized 128,095 people but in the course of the year we only gained 43,000 members, there were about 80,000 that were initiated and later lost. We don't know whether we lost the new ones but anyway out of the 128,000 members initiated in 1956, we only had a net gain of 43,000. I suppose that you all read the newspapers and you read about this right-to-work business; you've heard about the hearings, you've read about Taft-Hartley. You now have to use all the legal machinery in the states and if the company is in interstate commerce, you must use all the machinery of Taft-Hartley and all of the delaying tactics that go with it. So from now on I feel that organizing is going to be very, very difficult and in the course of a conversation with Bill Schnitzler last week, Bill informed me that the AFL-CIO is losing more representation cases now than we are winning. You can appreciate that these things have an effect; I don't know how long this will hang on before there will be a change.

I would just like to give you a fast run-down of the membership during the last 30 or 40 years. In 1920, we had at the end of the year a membership of 110,000, during the "Back-to-Normalcy" period of 1920 to 1925, our membership dropped to 56,359. From 1925 to 1930, which was probably one of the lush periods in the history of our country, we were only able to increase our membership to 63,000. Then we ran into the depression and our membership dropped to 56,000. Now, in the next five years (this is important because in 1935 the Wagner Act was passed and we started to see some increase as far as organization is concerned); from 1935 to 1940 to increase our membership from 56,000 to 145,000. Then from 1940 to 1945, which was the war period, we were able to increase our membership from 145,000 to 346,000, in other words by 200,000. Then we had a little lull and lost some membership in 1945 and, as I told you earlier, we now show a membership, as of the first of this year, of 689,787. We now have about 1,717 local unions chartered by the IBEW.

The next important thing is finances and I will start out with the General Fund. At the present time in the General Fund we have a reserve of about Five Million dollars. We have a monthly income of \$450,000 and we have a monthly expense of \$450,000. At the present time, the International is able to operate because of an action by referendum last year. The Executive Council made an estimate and found that we could set aside One Million, Two Hundred Fifty Thou-

sand Dollars that would safely take care of all the expenses of a Convention. They then recommended to the membership that all monies in excess of \$1,250,000 be transferred to the General Fund. We reached the \$1,250,000 last September and from September to date we have been transferring \$42,000 a month that would ordinarily have gone into the Convention Fund into the General Fund. Prior to September, 1956, we operated at a loss of \$35,000 a month. We also are dependent very much on initiation fees. In 1956 we were able to collect One Million dollars in initiation fees and in 1955 we had collected \$250,000. Now our fixed cost of operation of the International is about Seven Million dollars and our income from per capita is about Five Million, Six Hundred Thousand dollars. We have come to the conclusion that it is bad business for a Seven Million dollar firm to have in reserve a little less than nine months or so, in effect, and we hope that at the next meeting of the Council that they will recommend to the organization an increase in per capita. We haven't had a change in per capita since 1919 because in 1919 we were getting 75c, it went up and went down and we are now getting 70c and we hope that when this referendum is circulated we'll get the support of your Local Unions in passing this. We would like to see that the International is operated from the per capita tax.

Now I mentioned organizational programs; this means we are talking about meeting the requirements of the day and that it is necessary for us to have additional income. As it stands today, we set up an organizing program, pick a fellow from here and pick a fellow from there; fellows who have obligations to their Local Unions back home and after they are on the job two or three days or a week there is a call that they must come back; there is trouble. So often, we just hit and run and it is Gordon's program to set up what I call a "blind gang" of seven or eight or nine people to be sent into a location to stay there for a year or fifteen months, making a transfer so that that will be their one job until we finally get a decision one way or another through a Labor Board election or whatever processes are necessary in order for us to get a decision whether there are supporting members or there are not. Then, of course, trade programs are costly items today—you can readily understand that we need additional money for them. Again, on behalf of both of us, we ask your support.

As I told you before, in the Convention Fund we have a balance of \$1,250,000; we have an income of \$42,000 and the excess is being transferred to the General Fund. In the Defense Fund we have a balance of \$1,933,000. We have a monthly income of \$18,000; we have a monthly expense of \$3,500. That Fund is building but the Constitution spells out very definitely how this money can be spent and it *only* can

be spent by the authority of the Executive Council.

The next fund I come to is the EWBA. The EWBA at the present time has in it some \$39,500,000. We have a monthly income of \$400,000, we have a monthly expense of \$150,000. That money is invested in accordance with the rules of the Insurance Department of the District of Columbia. We have 21 per cent in bonds, both government and private bonds. We have 30 per cent in stock and we have 42 per cent in real estate loans, consisting of FHA and VA-guaranteed mortgages. The Death Benefit Fund has in it \$2,200,000. This Fund is made necessary because the EWBA does not operate in the states of Michigan, Kansas or in Canada. Here we have a monthly income of \$20,000 and we have a monthly expense of \$7,500. That money is invested in real estate, stocks and bonds.

We get an actuarial report every year on the EWBA and in our last report, this particular fund is about 107 percent actuarially sound. It is in good shape. Last year we had expenses of \$236,893.62 and there were 200,390 deaths. This brings me to a point that I would like to make and I wish you would check it. I don't think there is anything more disheartening at a period of death to have something wrong with insurance and how it should be paid. We have a number of things that over the years have caused delay and sometimes made it impossible for us to pay death claims that were due and I would like to have the Financial Secretaries, if they will, check with our membership and see if their beneficiaries are in order. First of all, we have 130 unpaid claims that are held in the I. O. for location of heirs. Here are a few reasons why death claims are not paid. First, a mother has been named, or a father or relatives but the beneficiary has predeceased the member and no change was made in beneficiary at the time of his or her death. Two, if divorced, member did not change beneficiary after divorce. A divorced wife, even if still named, is not proper beneficiary. Three, and this is an important one, we are unable to locate minor children, brothers, sisters, aunts and uncles, named to receive benefits. Many times the benefit is paid to a relative who was named as a beneficiary many years ago and the wife and children receive nothing, because we have to pay whoever is on our records. Members who wish a divorced wife or friend to receive the benefit should name their estate as beneficiary. Members without relatives should name their estate and they may then leave a will giving special instructions as to how benefits should be paid.

The next important fund is the Pension Benefit Fund. Today we have in that fund \$52,700,000, which is invested. We have a monthly income of \$850,000; invested: 11 percent in bonds, 15 percent in stocks and 72 percent in real estate, FHA and VA loans and also some construction loans. We also have borrowed from

local unions about \$9,000,000 and, as you know, this was the Silver Jubilee Fund. We would like to close that out this year, we would like to reach our \$10,000,000 goal. If you happen to have a few dollars laying around and can loan it to this fund, we would appreciate it.

The last fund, now, is the Pension Trust Fund. We have in that Fund today some \$27,642,000. We have a monthly income of \$750,000; we have a monthly expense of \$400,000. This is the fund from which we pay all the pensions and will continue to for a while because there again we run into Taft-Hartley. According to Taft-Hartley you have a matching fund from which you pay pensions and we are able to comply with that. Now they are demanding of us that we balance up in this fund, the payments from our fund against what has been paid out of this fund. We'll have to make some changes, it is just a bookkeeping business, but it is one of those things that happen from day to day and about which we have to be concerned continually. This money is invested in bonds and real estate. Some eight or nine months ago, we started a program at the International Union, when we found out about tight money, so to speak, and after three or four visits by contractors who claimed that this type money has caused them to close up, we have formed a policy where we have picked eleven cities where construction is done 100 percent union and we are investing about \$1,800,000 a month in mortgages in these cities, throughout the United States.

### Support for COPE

As you know, the International Secretary supports the program of the AFL as far as collections are concerned. We support the Red Cross, Community Fund, Cancer Fund and all the rest, but there is one important fund that is associated with the AFL-CIO and that is COPE. I would like to just spend a couple of minutes on what is happening. We have the right-to-work laws all over the country and I have told you many, many times that the Taft-Hartley Act is nothing but a time bomb and when they want to use it, they will destroy all these organizations. You can talk about Taft-Hartley but the only way we are going to get relief from Taft-Hartley is to have enough members in the House of Representatives and in the Senate to vote for the amendments recommended by the AFL-CIO at the time they are presented on the floor and if we don't have them, it will be impossible for us to get any relief. In those states where right-to-work laws have been passed by the legislature, they have to be repealed by the legislature and in those states where the laws were passed by a referendum then you have to repeal them by referendum unless we get a break in the courts where they are declared unconstitutional. I wish you would all go back and see if you can't get those COPE books out of the packages.

The opposition pinpoints those candidates who are friendly to us and when they take our program and support it, they cut off all contributions outside of the trade unions and a few liberal people throughout the United States. There will be some very important primaries in the South, in April and May of 1958 and we need the money in those primaries because the results of those primaries are our only chance. I don't need to tell you fellows, of all people, how impossible it is for us to get our story to the public. I don't care what any officer of any International or Local Union does, he can't get any space any place, but let them get off base and it gets the headlines. The only way that we can get our story home is by word of mouth and I hope that you fellows will get your stewards alerted and I am sure that the State Federations of Labor and COPE will get material to you and see to it that it gets to our members, because I am sure that if our members understand, they will vote right. When we lose in elections it is because we don't inform our membership of what the results will be and what will happen to them personally. So, we have to approach this a new way, we can't depend upon meetings. We have to branch out and we have to get to the membership. We take on obligations as officers, we get tired of trying to pound the story home. I don't suppose I make an effect on anybody or maybe a few at every meeting, but somebody has to continue putting this story home because in every case that I know of where we had losses, we could have corrected it if we had had just a few people working.

I am not a bit afraid of what is going to happen to the McClellan hearing. I don't think they are going to find too much wrong. I think they are trying to develop something out of it to create a hysteria at a certain given time when they can drop a bill in the Congress and pass it before these people have a chance to think, but I say we ought to keep in there fighting. We have nothing to hide. There are 65,000 local unions affiliated with the AFL-CIO and there are at least five officers in every local union—65,000 times 5 is the number of officials that represent the trade unions of this country and with 13 or 14 people that are involved in the hearings, it doesn't mean much to me. I say that this is a job that you have to fight with the army—not with the generals—this is one that has to be fought with the membership, standing up for their officers and pointing out to the public the benefits they receive from the efforts of our local unions. I am sure if we all do our job and we all get behind this thing we can probably make a change in 1958 that will take these people off our backs, lighten the load and we can go out and do the job that we are set up to do to make a better way of life for every citizen in this country.

Thank you.

# Place Emphasis On Organization

*Address by International Treasurer Jeremiah P. Sullivan to the Sixth Annual Progress Meeting of Radio, TV and Recording*

THE International Secretary covered practically every point of interest in organized labor and in our own International Brotherhood of Electrical Workers. He analyzed our financial structure and he analyzed the President's report in the necessities of organizing and branching out. He also emphasized the fact that we have a central office in the International and that it is now building up practically every known facet that is necessary to be of any assistance to the local unions throughout the country. I think the message is there that the survival of our Brotherhood and the survival of the local unions is organization. We have to expand for our own protection. We take every conformant part of our Brotherhood which was mentioned in chronological order by Joe, such as manufacturing, radio-television, construction and so on. From my experience and from my analyzing or digesting what I have found existing in our Brotherhood, we must get together in all component parts. That is to say that we do not want to segregate—I don't think it is good policy to segregate groups from each other.

Every man knows that in numbers we have strength. In a city you have manufacturing, you have street lighting, you have motor repair shops, you have your radio-television groups, there should be a closer association of all those groups within their own area and then through these Progress Meetings where we can converse with all the other representatives. Thus, we are trying to set up a uniformity of action among our groups of the IBEW. Your problems that you have discussed here today, I have been acquainted with very much in the past years. But if you were to orient your rank and file membership to the importance of the other component parts within your area to find their problems and to find the solution to your own problems, assisting the other groups to find the solution to their problems, then you would have the full strength



JEREMIAH SULLIVAN

of your area under the title of the IBEW. The greatest part of that is, as I said before, the survival of our own future lies in organization and we have to continue to stretch out and expand and organize.

It is too bad that Gordon Freeman, our International President, is not with us. I saw him off at Idlewild. He has been elected as a delegate to the ILO and he is in Geneva, Switzerland; but he has been stressing at all the Progress Meetings that we travel to all over the United States and Canada, the importance of organization. He has been stressing the points of the different parts that are open in the electrical industry. I can't do any more than Joe did. I don't think it would be possible for me to even touch him because he has spoken to you from many years of experience—the experience that he has had in the International Office and the experience that he has had as Vice President of the American Federation of Labor where he is delving into, not only the electrical problems, but the problems of the AFL-CIO. I will ask you please to digest everything that he has said to the best of your ability and take back the message to your rank and file membership and try to orient them into the thinking that it is very important to follow through on what Joe has emphasized. I was very

glad to see that there is a recording taken of this and I only hope that Al will be in the position to have that tape recording brought to the various meetings in your own groups so that they can hear individually and I am sure that they will take the benefit out of what was said because it was said with all sincerity and with all the available facts.

On February 14, I was appointed as International Treasurer of the International Brotherhood of Electrical Workers and from my experience—and I have been a member of the IBEW for many, many years—I say it is the most outstanding International union in the entire country—and in the world, in fact. And I want to thank Gordon Freeman, our International President, our International Secretary Joe Keenan and also the Executive members for the appointment and the ratification of the appointment through the Executive Council in giving me the privilege to serve such a wonderful organization. You can rest assured, I will give it the best I've got.

## Progress Meeting Banquet



Two views of a special banquet for delegates to the New Orleans Progress Meeting. Local 1139 was host for the gala evening enjoyed by delegates and wives.



July-August, 1957



CHARLES PAULSEN

## Paulsen, Council Chairman, Is Dead

trical Workers almost continuously since 1932, died in Chicago July 16.

Charles M. Paulsen, 84, chairman of the Executive Council of the Intl. Brotherhood of Elec-

He was an IBEW member for 65 years, having been initiated in Milwaukee in 1892. In 1905 he transferred to Local 134 and had been its president since 1919. He was first elected to the IBEW Executive Council in 1930.

## California Fights Right-To-Work

Organized labor in San Benito County, California, the second California county to pass a so-called "right to work" law, is mapping plans to wipe the compulsory open shop ordinance off the books.

The success of the plans may well determine the fate of similar "work" proposals being advanced in a number of other California counties. A similar law in Tehama County is also under legal attack by unions.

Preliminary study indicates that many groups in the county must rely on support from organized labor. Efforts will be made to develop a closer working relationship.



## ***The Legal Burdens Are Heavy***

*Address by General Counsel, Louis Sherman before the  
Sixth Annual Progress Meeting Radio, TV and Recording*

**W**HAT I propose to do today is to cover the field of interest to you both from a general point of view and also from a specific point of view. From the general point of view it seems important that we examine the question of where we stand insofar as our legislative position is concerned. As you know, during these last ten years the situation in which the labor movement finds itself has been the product of legislative action both in the Federal Congress and in the state legislatures. I daresay that for all of you who have been in the labor field for a substantial period of time, it is entirely clear that these last ten years have been quite different from the preceding ten years. Every year we come together and we express our dissatisfaction with the heavy legal burdens which have been put upon us. I think that this year there is perhaps even greater cause for alarm as far as the legislative field is concerned.

You all know from reading the newspapers and the labor publications that there is a rather serious investigation going forth in the Congress of the United States which has some rather pointed implications for the welfare of the labor movement. That investigation arose as a result of some activity by the Senate Committee on Government Operations then headed by Senator McClellan. He wanted to have the Teamsters' Union officials appear before the Committee and testify with respect to certain problems. The Teamsters' Union was of the view that this Committee did not have jurisdiction. They took that position formally before the Committee. In addition to that they sent a telegram to various high officials of that union in which the International Office

advised concerning testimony before the Committee. The telegram came into the possession of the Committee very shortly after it was issued. The appearance created by the telegram was one of defiance of the Senate at which point all the Senators from left to right, Democratic and Republican alike, rallied behind the Chairman of that Committee and supported him in his effort to assert the position of his Committee. As a matter of fact, reading the record, it became entirely clear that an error had been made because the tactics employed had the appearance of challenging authority. It is not odd that all the Senators, regardless of their personal views on labor matters, are Senators first. They really did get right behind Senator McClellan with respect to two things. First, they voted unanimously that the men of the Teamsters' Union who had refused to testify on this jurisdictional issue should be held in contempt. The cases were duly sent to the Department of Justice, indictments were issued and the trials are going forward now. Second, and what is more important, they rallied behind Senator McClellan on the project of establishing a new committee which would have undoubted jurisdiction in the field of labor-management corrupt practices. The Senate granted extensive authority and extensive funds in such a short time that it was almost unbelievable.

The Senate Committee after it received authority and funds has moved forward with the results which I am sure each and everyone of you are thoroughly aware of. I do not propose to repeat or comment upon the evidence which has come in.

What I am more interested in, and what I think you are more interested in, is the question of what all this means.

The first and most obvious thing it means is that there probably will be legislation on the control of union funds and finances. As far as that part of the work of the Committee is concerned, I am sure that no one here has objection. As a matter of fact, as you well know, the AFL-CIO top command has expressed its complete support of such legislation. It is interesting to note that the objection to such legislation today comes from important organs of opinion in management rather than labor. The legislation which has been proposed in this field is of two kinds. One, legislation which would control only those funds which are established through collective bargaining or are administered by unions and two, legislation which would control all funds including those set up or administered by management alone. In this latter connection, I am referring to the pension plans and the insurance and welfare plans which many employers have put into effect without the intervention of any union. The position of the labor movement and the position of the administration is that the legislation should be put into effect across the board. Interestingly enough, the National Association of Manufacturers is opposing that. They aren't stating very substantial reasons for their opposition. I think about the only statement that has been made in support of this view is that the investigation shows only the need for the regulation of union funds. This, of course, is quite inconsistent with the ordinary experience of legislative bodies with respect to such matters, evidenced by the old investigations of insurance companies and other financial institutions. I rather doubt that they will be able to sustain any such position. It seems to me that the public demand for control will be for control of all such funds regardless of how established or administered.

With respect to that part of the work of the committee there isn't really too much of a problem. There may be rules and regulations coming out of it that will have to be complied with but I am sure everybody is in favor of that. There is, however, a second aspect to the work of this committee which I think we do have to view with concern. The committee is creating an erroneous public impression of the kind of people that run labor unions. It is, of course, entirely deficient in one major respect and that is that people are drawing very large inferences from evidence that has been introduced with respect to a rather small number of persons. Nevertheless, that is the way it is. Newspapers don't write up the great bulk of happenings in any field which are pleasant, they concentrate on the more sensational events and when people read the sensational events, they always assume that the story is true far beyond the area with which the newspaper report is concerned.

I think that the effect of the material which is coming out is already beginning to be felt in other areas. For example, let us take the matter of the amendments to the Taft-Hartley Law. I was talking to a couple of the delegates this morning about this problem and I was saying to them, it is amazing how people are inclined to forget over the years just what has happened. When the Taft-Hartley Law was enacted in 1947, there was quite a division of opinion between those who took what I call a flamboyant position of saying—"We want total repeal of this very, very bad law or nothing"—and those who wanted to take a more practical view of getting changes or amendments in the law. I might say that as far as the IBEW is concerned, the position we have taken in the private councils in the labor movement and publicly has been that we must take into account that this law was enacted by very substantial majorities in both Houses and that a veto of the President had been overridden. Under these circumstances it became necessary to figure out; how you could get solid practical relief and avoid the danger of going down a road that sounded very attractive in terms of repeal but which would finally wind up with nothing. There were others, however, who took the extreme position. I ask, how many of those men who were screaming at the top of their lungs years ago that they didn't want any amendments at all until they could get complete repeal are taking that same position. I don't want to be pointed about it, but even the leading figures in the erstwhile CIO unions, have dropped the "repeal or nothing" slogan and are using new and different formulas of words such as: substantial revisions, substantial amendments, substantial changes, and other phrases, none of which imply repeal.

I speak with a little feeling on this subject because at various stages I was involved in the process of trying to get amendments to the Law when such amendments were feasible from the legislative point of view. In one case in particular, with respect to certain procedural amendments which had been proposed by the American Bar Association and which had the approval of leading lawyers representing labor unions—the opposition that was voiced was along very strong lines. It was stated that those who were in favor of the amendments were people who were trying to diminish and to blunt the political force behind total repeal. That was their attitude and that was their approach. Here we are, ten years later—we don't have any real amendments. As a matter of fact we find ourselves in the position today where there is less chance of amendment than there was in the preceding period when a lot of people for different reasons were willing to cooperate in efforts to get such amendments. I will try to make that specific in terms of the current situation. There is no group that has been affected as adversely by this law as have been the building trades. This year, after recognizing that all previous efforts

had gone for naught, a new tack was taken on the problem. Representatives of the contractors, representatives of the labor unions and the representatives of the Administration all sat down together to try to figure out what they could agree upon, and finally they came out with something upon which they did agree. We had a rather large legislative conference here in Washington and I told the delegates there just about as frankly as I'm going to tell you here that these amendments did not represent very substantial advances, they were minimal proposals. Nevertheless, they did represent an important gain and the primary reason for embarking on such a minimum program was the fact that opinion down on the Hill was changing. But since these proposals do not have much chance for early enactment, I believe that the advocates of "repeal or nothing" are carrying quite a little responsibility on their shoulders.

It is hard sometimes to realize that the picture changes and it seems to me that it certainly has changed at the Federal level. It has changed to such an extent that a Senator has actually come forward with a proposal which has never been made before and that is the adoption of a Federal "right-to-work" law. I know that was a strategic maneuver in connection with the civil rights business but nevertheless the mere fact that a Senator would come forth with such a proposal at this time means that some are evaluating the situation from the point of view that the public will take and accept more restrictive treatment of labor unions.

I recall that last year we had quite an extensive discussion of the state right-to-work laws and what they meant. It is a happy thing to be in a state where the labor movement was strong enough and intelligent enough to secure repeal of its law so that the total number of states was reduced from 18 to 17. But, of course, as you are all aware, the state of Indiana has brought the total back to 18 and the enactment of that law by

the state of Indiana is of great importance, because Indiana is one of what is commonly known as the great industrial states. It is the first big industrial state to enact such a law. As I tried to indicate to you the last time, these things don't just come up as a matter of maneuver. There has to be a basic public opinion supporting such laws for them to be written. I regret to say that at the present time, that opinion is being affected and affected adversely by a number of things that are happening. But, of course, the principal thing that is happening is the publication of the information which is coming out of this committee. I think it is somewhat of a wishful thought to imagine that all of this is going to blow away like cobwebs. My own feeling is that it is probably going to continue for a while longer and that there are intelligent and powerful forces which are making plans to make effective use of this material. I don't think their plans are limited to the matter on which we can all agree and that is the regulation of funds and the like. I think their plans contemplate using this pressure in the boiler as it mounts to develop a situation in which they can put in even more restrictive anti-labor legislation than is already the case.

I would like to turn now to some of the specific problems which are our own concern, that arise in that branch of the electrical industry with which we are involved. There is the problem of the remote control case before the Federal Communications Commission. I might say it is not my intention here to go through all the intricacies of that proceeding, but I thought I might give you a few of the highlights which may perhaps not have been mentioned in the magazine. The *TECHNICIAN-ENGINEER* has done a very excellent job, it seems to me, of communicating with the leadership of locals and with the membership of the locals on this subject and I shall, therefore, add only a few informal points. This case as you know arose in February of



1956, about a year and a half ago. The NARTB at that time presented a petition for the extension of the remote control authorization which had previously been given. In line with what I said to you about just picking out the highlights, I am going to mention some features of that petition which may not sound very important. The petition was actually a book consisting of approximately 400 pages. The slick paper was of the finest quality and it was a wonderful printing job. When it was filed there was a picture in the trade magazine of the broadcasting industry which showed the gentlemen from the Association appearing in the offices of the Chairman of the Commission, if you please. Now, I happen to be a journeyman lawyer and that sort of thing irritates me. The place where documents are to be filed is the Secretary's office and there is no need to take any pictures unless people are trying to create impressions.

The case was noticed for rule making in April. At that time a considerable amount of time and effort was allocated by the International for the preparation of an opposition to the petition. The technical work in the preparation of the opposition was performed by Al Hardy and Ken Cox. The legal work was performed by myself and Bill Brown, my associate. We decided that instead of putting forth to the Commission a statement that you are doing so and so to labor and the like, that we would not appeal to their humanitarian impulses but, rather, we would try to hit this petition on the basis of technical considerations and legal considerations. At first, the very size of this petition, I think overwhelmed all of us and we assumed that the petition had been prepared very carefully, for certainly the Association has all the resources necessary for the performance of such a job. The technical gentlemen on the job, Brothers Hardy and Cox, really did an amazing bit of work in terms of demonstrating and showing that the technical data in the petition was technically incorrect. The analysis of the petition also developed the point that they had very scanty evidence indeed, particularly with respect to the high power stations. Perhaps our most important objections to the evidence was that the so-called "experimental data" which they had filed were based upon assumptions and conditions which were not relevant to the proposed relaxation. In short, they had put before the Commission evidence of so-called remote control on the basis of *attended* operations at the transmitter. In other words there were first class licensed men at the transmitters which were under so-called remote control, when the relaxation proposed was that there should be no persons at the transmitter.

We filed our opposition and the Commission had previously allowed the Petitioner 20 days within which to file a reply to that opposition. Two days before the reply was due the Association asked for an extension

of time and the extension they asked for was in excess of 60 days. Of course, we don't mind saying it was a very pleasant inference from their request that sufficient material had been put forth in the opposition to require them to do something about it—and they did. They put in additional evidence and they also changed their position by making it tougher on themselves by requiring a separate auxiliary transmitter.

This case has been pending for almost a year and a half. The Commission is going to act upon it I assume one of these days—perhaps in the near future. I really think, and I think I am speaking objectively, that the IBEW and the other unions which have objected to the petition have made out a rather excellent case from a technical point of view with respect to this petition. What I am saying is that on this record and on this petition there are very serious deficiencies in the case. Under normal circumstances we might perhaps hope for an action by the Commission which would recognize the poverty of the Association's petition. But I think we had better be realistic about it and reserve our position with respect to the Commission's actions, until the Commission takes its action.

At the present time I don't think there is very much to say about this case until we get a formal decision by the Commission. That decision may grant the petition of the industry with appropriate regulations and restrictions. It may call for further hearings or it may deny the petition. I am not going to express any guess as to what they are going to do. When that decision is made, I think we will have to review it carefully from the standpoint of determining what our next steps should be. I think one thing is clear and, we can all take some satisfaction from it, that the Brotherhood did raise substantial questions in this case and that the delay in making the decision and the general perturbation surrounding the case is some evidence that the hard work which has been done in this matter has not gone for naught.

I should also mention to you that a committee of the House Judiciary Committee has issued a report which contains derogatory comments about the Commission. This Committee of the Congress has stated that the Commission has over-stepped the bounds when it comes to so-called *ex-parte* discussion of cases with representatives of interested parties.

The next subject that I am coming to is the question of Federal pre-emption or Federal-State jurisdiction. I believe that the IBEW Convention in 1954 was a rather unusual place to discuss this subject but it was the main topic of my remarks. I thought the question was that important and I think what has happened since then has demonstrated at least the validity of the proposition that this question of Federal pre-emption is just one of the most important things in the entire law. You will recall that the Supreme Court took the position that

where the Federal Government had acted as it did in Taft-Hartley to assume control of the labor relations field that a State could not act. The general proposition which the Court has stated is that if the conduct—picketing, or whatever it might be—is either protected or prohibited by the National Act, the State cannot act. A collateral issue arose in connection with that as to what happens if the National Board had jurisdiction as a matter of law but declined to assert it for administrative reasons. It is clear that the National Board has jurisdiction as a matter of law over every single radio and TV station in America. That was the view taken years ago and I am sure would be upheld by the Supreme Court of the United States. The National Board, however, decided to issue rules under which it declined to assert jurisdiction and so it made the rule that if a radio and TV station has less than \$200,000 annual revenues, it would not take the case. Under those circumstances the issue arose as to whether a state could step into that area. There was a good deal of doubt as to whether the state could or could not act. That doubt has now been resolved by the Supreme Court decision in *Guss v Utah* and in a number of companion cases. In these cases the Supreme Court ruled that if the National Board had jurisdiction as a matter of law, the State cannot act even though the Board decides from an administrative point of view that it will not take the case. That creates what some of our friends like to call a “No-man’s land.” It is called a “No-man’s land” because the Federal Board will not act though it could, and the states, whether agencies or courts, cannot act even though they would.

And so there arises this area of industrial activity in labor relations which is not under the control of either the Federal or State agencies. That is rather important right now from the standpoint of picketing issues and the like. It is important right now from the standpoint of trying to use State agencies for elections because you just would not be able to do it under these rulings. The question which emerges out of this particular matter goes a little further than the consequence of these cases. There is legislation now being proposed to correct the so-called “No-man’s land” position. And there are various moves being made from an administrative point of view to try to correct the situation. The General Counsel of the AFL-CIO, Mr. Woll, called a meeting of the lawyers representing the various Internationals for the purpose of discussing this important question. We met all day and what emerged out of the meeting were two recommendations which were made to the Executive Council for the AFL-CIO. One recommendation was that we should oppose any legislation in this field at the present time. The other recommendation was that the Board should assert jurisdiction through the reaches of its legal power.

Turning further to the matter of legislation (which

it is our position should be opposed), there are two principal proposals which are before the Congress today. One is generally known as the Watkins Bill. This Bill would authorize the States to act if the Federal Board declines to act. The second proposal which has been pending before the Congress for many years is known as the Smith-McClellan Bill. That Bill provides that the States and the Federal Government would have concurrent jurisdiction unless the Federal legislation specifically denied State action. The Watkins Bill, although opposed at the present time, is not as serious as the Smith-McClellan Bill. The Smith-McClellan Bill would have the effect of opening up almost all labor relations activities to injunctions by State courts. And, of course, if that were to happen, it would be a lot more important in my judgment than all the Taft-Hartley Acts and the right-to-work laws, because our general experience in the State courts has been quite bad.

You might ask why we are opposing the Watkins Bill. The opposition to that arises out of the feeling that it would be better to increase the jurisdiction of the National Board. There is also the same feeling that I mentioned here before in connection with the Building Trades amendments and that is, that any proposal coming forward today as far as Taft-Hartley is concerned would become the basis for more restrictive legislation against labor.

I have tried to digest every case that has come up since our last Progress Meeting in the Radio and Television industry and if you will bear with me, I would like to go over them briefly for a discussion of some of the points that have emerged. In doing so I have not limited the cases to the cases in which the IBEW was involved. I have also included the cases in which other organizations have been involved. There is one case here that involves the American Broadcasting Company (116 NLRB No. 202; 39 LRRM 1020) in which NABET has been certified for office clerical employees which included the mail room and the messenger service. After their certification the Company rearranged its operations in such a way that four of the mail room employees were given the use of motor vehicles, one had a jeep, three had passenger cars and they pretty much spent all their time transporting things in these vehicles. Thereupon the Teamsters, who had been certified for the transportation department, tried a new gimmick. They filed a motion to clarify their certification so as to include the four mail room employees. The Board dismissed their motion and also dismissed an alternative petition which they had filed under which they sought a self-determination election. The grounds upon which the Board went were, first that NABET had a contract which had not expired and second that the circumstances had not changed to such an extent that the existing unit held by NABET was deemed inappropriate.

The next case is that of Bi-States Company (117 NLRB No. 22; 39 LRRM 1180). This is rather interesting, not only from the standpoint of what was ruled in the case, but also as to some index as to the thinking of this Board. In this case, the IATSE filed a petition and a union known as the KHOL and KHPL-TV employees union intervened in the proceeding. The case incidentally was a Nebraska case. The IA objected to the intervention by the independent union claiming that it was not a labor organization because it was dominated by the employer. The evidence that is in the record in support of this contention is as follows. First, that the Union had not been organized at all until five days after the IA petition had been filed, a rather unusual coincidence. Five of the eight officers of this independent union were supervisors. All three members of the bargaining committee were supervisors. All this information was in the record. The majority of the Board took a technical position on the matter and said that this issue could not be raised in an election case. This is due to the view of the Board that unfair labor practice charges cannot be litigated in a representation proceeding. They said that as long as this independent union had been organized for the purpose of dealing with the employer on wages, hours and working conditions that was enough for them. Further, they mentioned that in this particular case the independent union was not a petitioner, it was an intervenor, which would seem to be a difference without distinction. A strong dissent was voiced by member Murdock. He put it right on the line, that if this election resulted in a victory for the Intervenor, the Board would have created a situation in which the employer was bargaining with himself. After all, if three members of the bargaining committee are supervisors and five of the eight officers are supervisors, it does not seem to be exactly a situation in which the employees are bargaining with the employer. Member Murdock further made it clear that the position which he was asserting was in fact the traditional position of the Board. Although it was the position of the Board that unfair labor practices cannot be litigated in a representation case, nevertheless there were many cases where the employer domination of the union was so clear on its face or had been admitted, that the Board had given consideration to the issue of "domination" in a representation case. This is just a small case, but you can see what it means in terms of defeating organization which a union is trying to secure through the Board. In this particular case, the Board members also went into the matter of a composition of a Unit. This was a Unit of studio engineering employees which the Board held should include the following. First, a traffic assistant and promotion assistant; second, announcers; third, an artist notwithstanding the contention that he was an independent contractor. You take that case and compare it with another case, which was



Leo Phillips of Local 45 speaks from the floor.

also decided by this Board, involving the American Broadcasting Company. In the American Broadcasting Company there was a petition for a unit of musical composers by some musical composers' guild and this was dismissed on the grounds that the employees were independent contractors.

I would like to digress for a moment from these cases to indicate to you that the current Board is beginning to find itself in trouble with the courts. Ordinarily, the courts are very slow to reverse administrative agencies, they rely upon the so-called expert judgment of the agencies. The Fifth Circuit Court of Appeals, which has its main hearing place in New Orleans, cannot be accused of any bias in favor of labor. Nevertheless, there have been a couple of cases in which the Fifth Circuit Court of Appeals, if you please, has written some rather sharp language and reversed the Board in cases where the Board has rendered rulings against unions. In one particular case regarding secondary boycotts, the Fifth Circuit Court of Appeals used such words as these; that the Board was frustrating the intent of legislation and subverting its purposes.

Now, there is another case here which involves Local 1221, IBEW—Cornhusker TV (117 NLRB No. 156; 39 LRRM 1388)—the case involving the Pro-

gramming Department, which the Board held constituted an appropriate unit. They included Continuity Writers, the Farm Director and Scheduling employees. They also included parttime employees. Then, this is rather interesting for the people stationed at WTOP, they included the Floor Director. It is regrettable in my judgment that there are so many areas where it is very difficult to get the court to step into the case as a matter of jurisdiction even though the court might be convinced that the Board was wrong.

There are a few decisions, however, which are fairly good. This one involves the Elm City Broadcasting Company and NABET in New Haven, Conn. (116 NLRB No. 250; 39 LRRM 1076). In this case there is a sale of assets by a broadcasting corporation to a publishing corporation. This sale had been under way at the time the petition was filed, June of 1956. Strangely enough, the employer consented to the election and made no mention of the sale to the Board until September 7. The Board conducted an election prior thereto—as a matter of fact the challenged ballots were counted on August 28—the employer still not having said anything about the transfer. The sale was consummated on August 28. A run-off election was held on September 10 after the sale and the Union won the election. The Board did uphold the election in that case and issued a certification. The members took the view that there had been no appreciable change in operations and that all of this was known to the company. Whether they would have taken that position if the company had filed appropriate objections from the very beginning is not known. At any rate, this is something of a precedent that where a sale takes place during the course of an election, that you may be able to hold on to the certification even though the ownership changes.

Then there is the case involving the Hirsch Broadcasting Company and the IBEW at Cape Girardeau, Mo. (116 NLRB No. 262; 39 LRRM 1095). This involved a unit of all programmers and operators employed by the Hirsch Corporation and another company known as Versatile Production. The Board held that it was proper to include both companies in one unit, the fact being that the Hirsch Company had a number of departments, one of which was a Production Department. The officers took the Production Department and made a new corporation out of it. There were no common stockholders but relatives owned the stock. The Board refused to permit the company to rely on the basis of a corporate fiction and upheld the requested unit.

The Board has also stated a rule in the case of Northwest Publications (116 NLRB No. 150; 39 LRRM 1052), which involved IATSE, that a unit of TV employees, other than technicians, who contribute to the presentation of but do not appear on programs is appropriate. The unit included the Continuity Writer,

the Traffic Manager and the merchandise girl. The unit excluded the News Director, who they claimed was working with talent, salesmen and, interestingly enough, the artists. Sometimes the latter are included and sometimes they are excluded.

We had a rather interesting case which is not in the Radio, Television Broadcasting industry but which did involve a Local that had both radio and television service and radio and television broadcasting—Local 1481 in Pittsburgh. This is known as the Pennway TV Service Company case. It was interesting because it showed that sometimes you can do something with a State Labor Relations Board. In this case the IBEW won the election and the company, as a result thereof, or in contemplation thereof, re-arranged its operations by creating a new company, the All City Television Company, which was officered by the gentlemen who had been the officers of an independent union of Pennway Television. The union objected vigorously on the ground the company had committed an unfair labor practice. The case went to the Pennsylvania Labor Relations Board which at first took an approach to the case which accepted the surface indications of the facts. The Pittsburgh Local got in touch with the International. The Local thought this was pretty bad and we thought so too. We addressed ourselves to the appropriate officers of that Board, the State Attorney General and other State officers having jurisdiction under the statute. The Board held a new hearing, took a much more realistic view of the case and came out with an order requiring the company to bargain and also requiring them to reinstate ten men with back pay. The case is now pending in the courts which have power to affirm, reverse or modify.

This next case is one which involves a Local in San Francisco, known as Kern County Broadcasters (116 NLRB No. 10; 38 LRRM 1212)—the station is KERO, Radio and TV. This is a case in which I believe legitimate criticism can be expressed. There was an election and it was very close. The whole issue of whether the Union won or lost depended upon whether a particular vote would be counted. The vote had been cast by a gentleman known as Joseph DeYoung. He was a parttime employe in the cameraman classification. He was paid more than the others and this differential of pay was justified on the grounds that he had qualifications to do other work. It happened that in his other capacity he was a managerial employe with the Pacific Gas and Electric Company. This different employment had nothing to do with this case. It also happened that he was hired on May 23, 1955, the employer's petition having been filed on April 6, 1955. In other words he was hired after the petition for election was filed. And there was one other consideration and that is that Joseph was the brother of Albert: Albert being the President and majority stockholder of the company. The Board duly

deliberated on it, decided that as he was an employee, the vote should be counted.

From a legal point of view the factor of relationship by family ties is certainly a consideration in the decision of other legal questions. For example, in the Hirsch case I mentioned previously, the Hirsch Corporation and the Versatile Production Company did not have any common stockholders but the stockholders of each were related by family ties and the Board considered that to be a vital factor. In other cases of much more complex character arising in the courts of law, the factor of relationship or affiliation is taken into account, but here the Board has closed its eyes to the facts. Obviously, an "employee" in the circumstances of Joseph DeYoung really shouldn't have been allowed to vote in a certification election.

In deciding cases like Kern County Broadcasters, the Board lays itself open to the charge that it is throwing its administrative discretion against union organization.

In South Bend Broadcasting Corporation (IBEW L. U. No. 1220) (116 NLRB No. 146; 38 LRRM 1425) the question was whether the station operated by Notre Dame University was covered by the Act. Under the facts of the case where the TV corporation owned all the stock in the radio corporation and the company was operated as a strictly commercial enterprise affiliated with the National network and received substantial revenue from National advertisers, the Board held that the station was subject to the Act, even though the corporation's profits were turned over *in toto* to the University.

There was a rather complex case that arose in the Minnesota courts, known as Tynan vs. KSTP, Inc. (38 LRRM 2147) which involved the issue of vacation pay. The Supreme Court of Minnesota appears to have ruled that where there is a vacation clause and a strike occurs during the course of the agreement, the applicable provision of the agreement will be used as a measure of the pro rata payment. In this particular case they had two clauses on vacations. One provided for 14 days after six months and not less than one year of service, the other provided for 21 days after one year of service but provided for pro rata pay only if the employee was laid off or went into the Army. The court was quite strict in holding that the second clause could not apply because in the particular situation the men were neither laid off nor had gone to the Army—they had struck. The case indicates that when you write your vacation clauses, you may wish to state more specifically the circumstances under which vacation pay is payable on a pro rata basis.

Then we come to the Rollins Broadcasting Company (117 NLRB No. 137; 40 LRRM 1036) which I know has attracted a lot of attention. This case is an Indianapolis case. The issue as far as we are concerned is the question of how the construction period can be utilized for the purpose of getting an agreement. In this particular case the station was under construction, there

were no employees of the Rollins Broadcasting Company on the property where the construction work was going forth. The Business Manager apparently spoke to the representative of Rollins about getting an agreement and he wrote a letter to the company in that regard. He also spoke to the Superintendent on the construction job and, not receiving satisfaction, he picketed with signs stating first that the company refused to agree to pay the applicable standard of wages for engineering employees and second, with a sign which made it clear that the picketing was directed solely against Rollins. The Trial Examiner ruled that this was a secondary boycott, but went on the theory that it was what is called common situs picketing. The Board agreed with the Trial Examiner that it was improper conduct as far as the secondary boycott provisions of the Act were concerned but held that it was not common situs picketing because Rollins did not have any employees on the job.

Now then, the question arises, what can you do about that kind of a situation. In order to discuss that question, I think I should take you back to more fundamental doctrines on this secondary boycott issue. Section 8(b) (4) (a) of the Act prohibits a Union from inducing employees of an employer to refuse to work, for the purpose of getting one employer to cease doing business with another person. The prohibition amounts to this, that you can't take action which would induce the employees of one employer to stop work so that employer will, in a sense, induce another employer to do what you want him to do. In this particular case the Board construed the activity as being picketing which induced the construction employer to cease doing business with Rollins Broadcasting Company for the purpose of forcing Rollins to make an agreement; it therefore held the picketing illegal. That goes back to the case we had in the Second Circuit Court of Appeals and the Supreme Court where the Circuit Court of Appeals ruled that if your picketing is going to be considered primary picketing rather than secondary picketing, you can picket only when there are employees on the job who are working for the employer with whom you have your dispute. In this particular case if Rollins had even one employee on that job, the picketing could have been construed as applied to that employee and then the refusal to work by the construction employees would have been considered a collateral effect of the picketing rather than its direct object. I know you must be thinking that such an approach to the problem is not effective from the standpoint of time. The question arises then what can you do. The only suggestion I can make under the present law is this. There is one case which developed a different procedure on this matter of the secondary boycott. This was a case that involved the Painters out in Joliet, Ill., which went up to the Seventh Circuit Court of Appeals. In that particular case the court took the

*(Continued on page 30)*

The wives settle down for the first trip—into the lake and past the crossing of the Inland Waterway.



Dick McNutt, 1218; Rep. Freeman Hurd and Ray Freedman, 1241, confer.



Wally Reed, 1259; Bob Gomsrud and Joe Krech, 292; flanked by Ralph Barnett, 1217—near the point of saturation.

**LOUISIANA**

**SHRIMP FE**

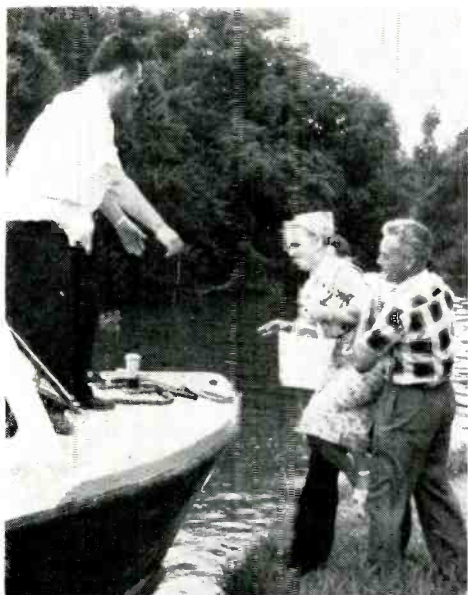
No small part of the enjoyment of the Progress Meeting resulted from the arrangements made by Local Union 1139 for a shrimp-crab-and-miscellaneous-good-food feast at LaFitte, La. If the Pirate Jean himself were still around, he would probably have deserted his namesake when the hungry horde from the IBEW descended upon the scene.

Words flew thick and fast—the food flew, too—assisted by a wonderfully congenial atmosphere, an exceptionally informal session resulted. The wives and children especially enjoyed a series of power-boat rides on an adjoining lake, which also afforded a real appreciation of the bayou country some 35 to 40 miles out of New Orleans.

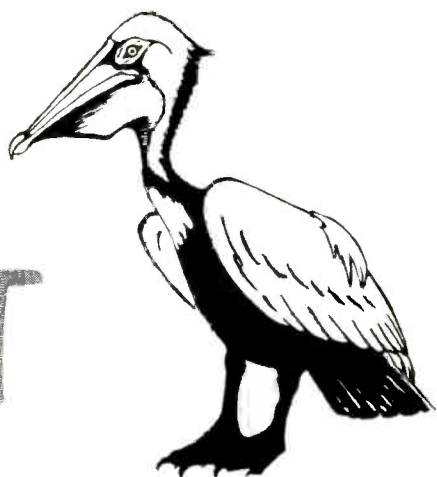
The line formed, right and left—almost ad infinitum.



**Technician-Engineer**



Mrs. Bill (W. A.) Smith is given a helping hand by Bob Grevemberg while Father Lieux stands on board, proffering help.



Formal manners went by the board and no one turned back from "work" to be done—just from the camera.

## Mitchell Revises Finance And Registering Forms

WASHINGTON—Secretary of Labor James P. Mitchell has revised the labor organization registration and financial report forms formerly used by the Department of Labor "in view of developments since the original form was adopted 10 years ago."

The new form, obviously responding to the recent hearings held by the McClellan Committee, has special sections calling for information on loans and repayments of loans as well as collateral furnished by officers or staff members.

In making public the new forms, Mitchell said that "malpractices by some union officers have indicated that the old registration form was inadequate in scope."

The new form extends the scope of the original one and includes such new items as: "receipts from the sale of assets, repayments of advances or loans, allowances paid to officers other than salaries, contributions and gifts to officers or staff not reported as salaries or allowances, transactions involving land and buildings, notes receivable from officers, and assets pledged or used as collateral or security by unions for loans."

The new forms will go into use for filing by unions whose fiscal year ends on or after June 30, 1957.

Mitchell declared that he is awaiting Congressional approval to permit him to make public these registration and financial reports. Whether he actually needs Congressional permission is disputed by some Congressmen who claim that he already has that authority.

Meanwhile the new forms are being studied by officers of the AFL-CIO.



# The Celler Committee Report on the Television Industry

*The House of Representatives' Committee of Judiciary has conducted studies and investigations of the Television Broadcasting Industry, pursuant to House Resolution 107, Eighty-fifth Congress. Its 186-page Report was issued on March 13, 1957 and was a subject of discussion at the New Orleans Progress Meeting. Certain portions of the Report are of considerable interest to the workers in television and to our IBEW Local Unions. Accordingly, excerpts from the Report are being printed hereinbelow, without comment of any nature, for the information of the IBEW membership.*



Congressman Emanuel Celler of New York speaks on the problems of the TV industry.

**T**ELEVISION, in the short space of 10 years, has become a profound social force. This new dimension in electronics, synchronizing visual with aural communication to bring entertainment, education, culture, news, public affairs and sports into the home, has captured the imagination of the American people to an extent rarely heretofore equalled. Reaching 90 per cent of the Nation's population, the universality of its appeal is demonstrated by the more than 37 million television sets in American homes, which represent an investment of over \$14 billion. . . .

A primary purpose of the Communications Act of 1934, the basic statute regulating radio and television broadcasting, was to guard against this possibility. In adopting this act Congress "moved under the spur of a widespread fear that in the absence of governmental control the public interest might be subordinated to monopolistic domination in the broadcasting field." Unlike other regulated industries, broadcasting is not subject to governmental control of rates, prices, and finances. . . .

The committee's study and hearings on broadcasting encompassed the following matters, among others: the development of television broadcasting; the present structure of the industry; the UHF problem; the economic and financial position of television networks; network practices; relationships between networks and stations; the manner in which the Federal Communications Commission and the Department of Justice have

discharged their antitrust responsibility in important areas of broadcasting; regulation by the Federal Communications Commission of coaxial cable and microwave relay rates and of private intercity relay system, and joint activities by broadcasters in music licensing. . . .

## UHF Economic Problems

In the face of the hazards involved in UHF broadcasting, 130 of 300 successful applicants for UHF licenses have surrendered their construction permits and others are delaying the construction of authorized stations.

At an estimated investment of between \$250,000 and \$500,000 per station, the capital loss already entailed by UHF station failures aggregates between \$15 and \$30 million, with an additional threatened loss of between \$23 and \$47 million unless the situation is drastically changed. . . .

## Paucity of Stations—Deintermixture

Present insufficiency of station outlets has meant that rival networks cannot get into a sufficient number of important markets to operate on a scale fully competitive with the National Broadcasting Co. or the Columbia Broadcasting System. The great majority of the VHF stations have a primary affiliation with NBC or CBS, with the result that other networks cannot ordinarily attain access to these stations except on a de-

layed basis during fringe viewing hours. This affiliation situation had its origin in radio broadcasting. Many of the existing VHF stations were organized by groups that owned radio stations affiliated with the CBS or NBC network. When such a group was licensed to operate a television station, it naturally gave first call on its television facilities to the same network with which it had a radio affiliation. . . .

This competitive disadvantage has been aggravated by the Federal Communications Commission's failure to take prompt action in making a final disposition of VHF station applications in a number of important markets. It is true that this inaction of the Commission resulted primarily from the unprecedented number of applications which followed the ending of the freeze in 1952. . . .

In sum, after 4 years of operation under the Commission's 1952 allocations plan the problem of spectrum utilization was largely unsolved, with UHF broadcasting in a critical economic condition and too few broadcast outlets in operation to afford more than 2 full-fledged national networks. . . .

By its numerous public statements that UHF is deemed necessary to the effectuation of national regulatory goals and by opening the ultrahigh frequencies to commercial television, the Commission has held out to prospective entrepreneurs, not that they will necessarily succeed if they enter the field, but that the United States has an important stake in their having a fair competitive chance at success. As has been demonstrated, no such competitive chance ever actually existed. More and more interests reached the conclusion that little, if anything, was going to be done about this and dropped out of the field. Meanwhile, also, all-channel sets came to play a less and less important role in the production schedules of manufacturers.

The Commission's most recent actions, in the deintermixture cases, are a most constructive step toward reversing this trend. Without expressing approval or disapproval of any particular decision, the committee commends the Commission for having, in those actions, manifested the capacity to act decisively in the public interest in the face of infinitely complex and conflicting technological and economic factors. . . .

The committee recommends that, pending the outcome of the proposed program of research and development concerning the feasibility of a major shift to UHF, the Commission vigorously press forward in its program of selective deintermixture, of which its reports and orders of February 26, 1957, are a partial result. The Commission should broaden this program to include many more markets, if feasible; in the public interest, and should continue to order the removal or conversion of existing stations where the public interest

requires. The committee will follow closely the pace and progress of the Commission's deintermixture program. . . .

## General Economic Picture

Program charges for network-owned shows for which the network seeks or finds no sponsor are, in the first instance, absorbed by the networks. This means, of course, that they are ultimately defrayed out of time charges.

Programming activities of the networks are said not to be profitable per se. Dr. Stanton, president of CBS, testified " \* \* \* for the most part we do not make a profit on these programs." Mr. Robert Sarnoff, president of NBC, testified that in 1955 the commercial programs broadcast over that network cost it \$8.6 million more than was received from advertisers and that, including sustaining programs, "the cost of the program operations resulted in unrecovered program costs of \$24 million." Asked by counsel, in the light of this deficiency, where NBC made its profit, Mr. Sarnoff replied "time sales." He added:

We could cut our costs by tens of millions of dollars a year if we abandoned the function of developing, producing and acquiring programs. \* \* \* But if we did do this, we would not be able to offer the sort of network program service the public receives today.

It is evident that network advertisers ultimately pay all program costs. Directly, they pay the program charges on the show they agree to sponsor. Indirectly, the time charges paid by advertisers cover the production costs of network public service and sustaining programs, plus any unrecovered network cost of commercial programming. . . .

## Network Time Sales

The question before the committee, not completely resolved by the record, is whether the television networks tie sale of network and network-owned station time to the sale of network owned or controlled programs. The disparate bargaining power enjoyed by the networks by virtue of their control of network time, places them in a position where they can demand and obtain substantial financial concessions from independent producers. These concessions consist not only of participation in any profits from initial broadcast. They often include a share in rerun and subsidiary rights. They sometimes include stock interest in the producing entity itself.

Practices such as these, which indicate use of control of network time as a lever for obtaining a financial interest in programming, can have dangerous anticompetitive consequences. They tend to deny independently produced programs access to the national networks unless the network is given financial interest. They tend

to afford programs in which the networks have a financial interest an artificial advantage over competing programs. They tend to deprive advertisers of access to independently produced programs and thus limit them in the exercise of program selection.

Existence of such practices would take on some of the characteristics of conditions condemned by the Supreme Court in the Paramount Pictures case. There, major motion-picture-producing organizations through strategic theater control obtained immeasurable competitive advantage over rival film producers. Such conditions led the Court to require divorcement of the defendants' production operations from their theater operations.

In these circumstances the committee believes that the Antitrust Division should continue its investigation of the practices here under discussion. . . .

### Question of Network Regulation

The committee believes that the Federal Communications Commission should consider amending its chain broadcasting regulations to limit the conditions under which the first call privilege may be used to delay the broadcast of network television programs. Among the factors relevant to such limitation are: (1) the nature of the program substituted for the delayed program, whether local or network; (2) the relative desirability of the time period in which the deferred program was originally scheduled and the time period in which it is later broadcast; and (3) the length of the delay.

Related to this problem is the question whether, when an affiliated station rejects a network program entirely, the incentive of the network to find another local outlet provides adequate opportunity for broadcast of the rejected program by some other station. There is evidence before the committee that in such cases the network does make the program available to other stations. On the other hand, there is also evidence of network objection to the use of network-owned programs in "building up" competition to network-owned stations. If this objection reflects network practice the access of network advertisers to local markets and the access of local viewing audiences and stations to network programs is being unduly restricted. The Commission, therefore, should also consider amending its rules to require a network, when its program is not broadcast by the local affiliate, to give appropriate notice of program availability so that other local stations may have opportunity to carry the program. . . .

### Antitrust Laws, Propriety of FCC Action

Congress, as was indicated in the introductory section of this report, made the antitrust laws expressly applicable to broadcasting. It provided for revocation

of the license of any broadcaster found guilty of violating those laws and for denial of a license to any person whose license has been so revoked. It clearly evidenced its intent that the broadcasting field be one of free competition.

Both the legislative history and the provisions of the Communications Act make clear that Congress conceived the preservation of competition in broadcasting and the protection of the public interest as against private interests to be among the Federal Communications Commission's major functions. The Commission has the responsibility of conforming "its regulatory activities with the letter and spirit of antitrust laws."

Essential to the accomplishments of this objective is the maintenance of effective liaison between the Commission and the Antitrust Division of the Department of Justice. The specialized experience of those charged with antitrust enforcement must be made available to the Commission with respect to antitrust problems that arise in connection with regulatory activity. Failure of such liaison may result in inadequate administrative consideration of antitrust principles. It has resulted in conflicting action by branches of the same Federal Government. . . .

Several aspects of the Federal Communications Commission's procedure in the NBC-Westinghouse case raise serious questions concerning the manner in which that agency performed its function of preserving competition and protecting the public interest in the broadcasting industry. . . .

The committee does not pass upon the evidence of coercion that were laid before the Commission by its staff. The committee observes, however, that the staff's reports and the replies of the applicants to the Commission's 309 (b) letters were the entire record before the Commission when it decided to forego a hearing.

In light of all the evidence before the Commission, its failure to order a hearing on the issue of coercion simply because the Westinghouse applicant formally denied that it had been coerced was improvident, to say the least.

Furthermore, the Commission's failure to designate the case for hearing constituted summary rejection of its staff's well-founded concern over the added concentration of television broadcasting facilities placed in the hands of NBC by the exchange and over the increased overlap of NBC coverage in parts of the eastern section of the United States. The committee concludes that such rejection reveals inadequate consideration by the Commission of the competitive principles underlying the Communications Act. . . .

The committee concludes that in approving the NBC-Westinghouse exchange of 1955 without a hearing, without adequate consideration of the specific antitrust histories of the applicants and their parent corporations, and without maintaining adequate liaison with the Antitrust Division of the Department of

Justice, the Federal Communications Commission fell short of performance fully protecting the public interest.

By comparison, the Antitrust Division is deserving of commendation for its vigilance in continuing the investigation of this transaction, particularly in the face of the Commission's summary approval.

On the basis of the foregoing, the committee believes it necessary that the Federal Communications Commission and the Department of Justice take immediate steps to improve liaison in cases falling within their concurrent spheres of responsibility. The committee also believes it necessary that, in the future, the Federal Communications Commission adhere to the policy of critically examining the antitrust background of each license applicant. . . .

### Common-Carrier Relay Charges

The combined impact of high common carrier transmission charges and restrictive regulations governing the use of private transmission facilities has created a situation in which many rural television stations remote from the transmission network find it impossible to obtain essential network programs for live broadcast. Although three years ago the Commission recognized that this "may deter and hinder the development of a nationwide television system," both aspects of the problem remain the subject of unfinished proceedings before that body. In light of the urgency with which a solution is needed, the length of time during which these proceedings have been allowed to drag on seems unconscionable. . . .

Television broadcasting has made tremendous strides in the 12 years of its existence. It is still in its infancy and at the threshold of an even more promising future. In the desire to forge ahead, mistakes have been made, some pardonable, others, if corrected, not unpardonable. The committee's study reveals that notwithstanding the progress that has been made, two major obstacles—station scarcity and restrictive practices—have prevented full realization of the nationwide and competitive communications system contemplated by Congress. These obstacles should be removed if the national objectives are to be achieved. . . .

Related to the problem of insufficient station outlets is the difficulty encountered by rural television stations, remote from the national transmission network operated by AT&T, which seek to obtain essential network programs for live broadcast at transmission rates commensurate with their capacity to generate revenues. Prospective rural licenses are faced on the one hand by common-carrier rates too high to permit economic operation, and on the other hand by Federal Communications Commission rules which make the operation of less expensive, private transmission systems wholly contingent on the unavailability of common-carrier services, and thus either impossible or economically

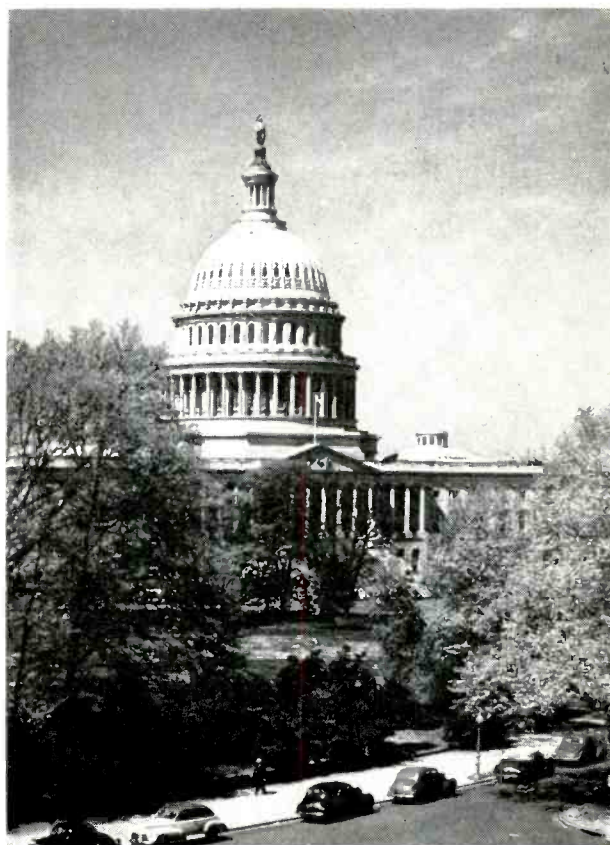
hazardous. They are accordingly discouraged from entering the field. . . .

The Commission nine years ago initiated a formal investigation of AT&T common-carrier charges for network transmission services. In March 1955, after the proceeding had been pending unresolved for seven years, the Commission's staff informed it that the staff had a sufficient number of qualified personnel to conduct a formal proceeding and that "a decision by the Commission not to formally investigate the rates in issue in docket No. 8963, solely on the grounds of lack of necessary personnel, would be unwarranted." Nevertheless the formal rate investigation of AT&T transmission charges is still pending and has not been brought to a hearing.

In light of the importance of the issues to the achievement of national objectives for broadcasting, the committee believes that the length of time during which these proceedings have been allowed to drag on is unconscionable. . . .

### Final Conclusions—Network Broadcasting

It is clear that the networks have, at great financial outlay and risk, pioneered in developing the great new medium of television. The networks have per-



Congress has before it a full docket of problems related to broadcasting. In addition to general studies on the activities of radio and TV networks, it is pondering toll TV.

formed an outstanding service in bringing to the American public, on a simultaneous, nationwide basis, public service, cultural and entertainment programs of national interest. Indeed, the committee regards network operations as indispensable to television broadcasting. . . .

In the last analysis, what is needed to correct present concentration is removal of competitive barriers and reaffirmation of basic antitrust principles. The committee does not favor direct Government regulation, for it believes that other measures, including those recommended in this report, consistent with antitrust objectives and within the existing statutory framework, will reestablish competition as the effective regulator in the public interest, without impairing in any way the present system of network broadcasting. . . .

### Commission Practices Criticized

In testimony before the committee on this NBC-Westinghouse matter as well as in testimony and documentary evidence submitted on other subjects, references were made to informal private conferences and discussions between FCC Commissioners and representatives of industry, some of whom were directly interested in problems pending before the Commission. The evidence demonstrates that for at least the past 10 years an air of informality has surrounded cases pending before the Commission. This has permeated the Commission's administrative process to a point where various members of the Commission without reluctance have, during the past decade, repeatedly discussed with one or more interested parties the merits of pending cases—even going so far as to indicate how particular Commissioners would vote.

This practice, insofar as it relates to pending adjudications, is repugnant to fundamental principles of quasi-judicial procedure. The committee recognizes the need for some informality in certain phases of the Commission's work, but where conflicting rights or claims of parties are being adjudicated, informal ex parte discussion between a Commissioner and a litigant or his representative treads dangerously close to, if it does not transgress, the outer limits of due process of law.

Accordingly, the committee believes it imperative that the Commission adopt without delay a code of ethics that would prescribe conduct of this kind by Commissioners and their staff and by attorneys and other representatives of industry alike. Such a code, like one already adopted by the Civil Aeronautics Board, should make clear and definite the line separating permissible from nonpermissible informal contracts between Commission personnel and parties. It should remove any doubt that now may exist concerning the impropriety of private communications with members of the agency concerning adjudicatory matters.



International President Gordon M. Freeman, of the IBEW (right), talks over an agenda item with Mr. George P. Delaney, International Representative, American Federation of Labor and Congress of Industrial Organizations, and member of the Governing Body of the International Labor Office.

**I**NTERNATIONAL President Gordon Freeman was an American labor delegate to the 40th annual Conference of the International Labor Organization, which met at Geneva in June.

Because of this assignment, he was unable to attend the Division progress meeting in New Orleans. He was, however, participating in an international labor conference which was taking strong action on many matters of worldwide importance.

The ILO finished its work at the Palace of Nations after adopting eight resolutions on subjects which were not on the original agenda. They were:

- Calls on ILO member states to abolish laws restricting the free exercise of trade union rights.
- Asks the Governing Body to convene a tripartite committee to deal with specific problems of women workers.
- Requests all mining countries to insist on the strict observance of safety regulations with special reference to standards drawn up by the ILO.
- The conference by 162 to three with nine abstentions hoped the Governing Body would expand the ILO's work in workers' education.
- Asks the Governing Body to arrange for a more intensive study jointly with the United Na-

# ***PRESIDENT GORDON FREEMAN TO ILO CONFERENCE IN GENEVA***

tions of national short term and long term housing program and to consider placing the subject on a Conference agenda.

- Calls for an analysis of the influence of existing ILO constitutional provisions on the application of conventions in non-metropolitan territories.

- Requests the Governing Body to arrange for a general discussion of hours of work at the next ordinary session of the conference.

- The Conference hoped that the work of the United Nations Disarmament Commission and its subcommittee might move steadily forward to relieve the fears of the peoples of the world, to lift the existing burden of armaments in the interests of economic development, and to permit the use of atomic energy for peaceful purposes exclusively.

In addition to these resolutions, the gathering accomplished the following:

- Adopted five new international labor instruments: a Convention on Forced Labor; a Convention and a Recommendation on the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries; and a Convention and a Recommendation on Weekly Rest in Commerce and Offices;

- Took preliminary action with a view to final discussion next year of four other instruments: a Convention and a Recommendation concerning Conditions of Employment of Plantation Workers,

and a Convention and Recommendation on Discrimination in the Field of Employment and Occupation;

- Adopted resolutions on the abolition of concentration camps and the deportation of national minorities, methods of wage payment, debt bondage and serfdom, abolition of anti-trade union laws, mine safety, women's work, workers' education, housing, non-metropolitan territories, hours of work, disarmament, testing of nuclear weapons, and use of nuclear energy for peaceful purposes;

- Noted more than 40 new ratifications of ILO Conventions;

- Examined a report on the manner in which member countries are applying ILO conventions;

- Adopted a \$7,972,901 budget for 1958;

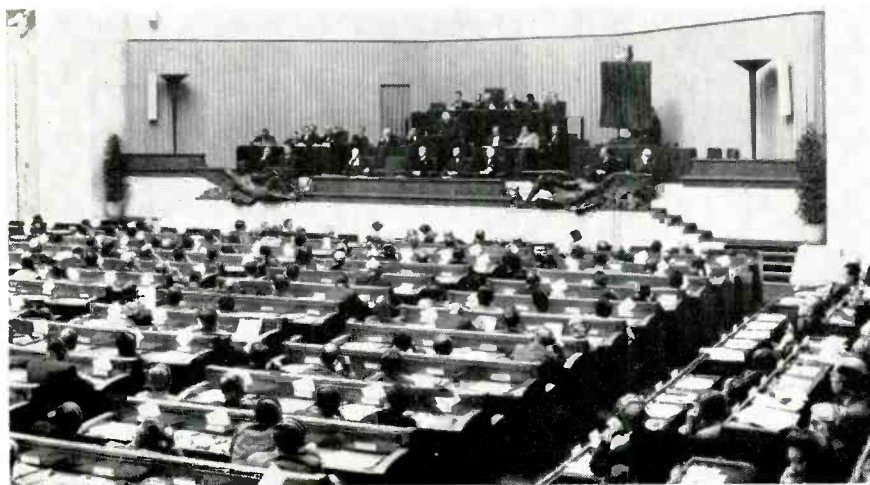
- Elected 30 new members to the ILO Governing Body;

- Held a general debate on the annual report by ILO Director-General David A. Morse and heard Morse reply;

- Paid solemn tribute to the memory of Albert Thomas, first ILO Director, on the occasion of the 25th anniversary of his death;

- Received messages from the President of the United States, Dwight D. Eisenhower, and from the President of the Council of Ministers of the U.S.S.R., Nicolai Bulganin.

More than 900 delegates, advisers and observers from 73 member countries and 10 territories took part in the sessions, setting a new record.



View of the plenary meeting of the fortieth session of the International Labor Organization in Geneva. The meeting drew worker, employer and government delegates from more than 73 countries.

# ***First Social Security Disability Checks to be Mailed in August***

**M**ORE than one hundred thousand severely disabled people in communities all over the nation will receive their first Social Security disability insurance checks in August, Mr. Sadd, district manager of the Washington, D. C. Social Security office announced recently.

But many other eligible disabled workers 50 to 65 years of age, have so far failed to make application to their social security offices. Those who have been disabled for work for a long time had to apply before June 30, Mr. Sadd pointed out, or they would lose their rights to these new benefit payments.

Any severely disabled person who has worked under social security for at least 5 years and who has been disabled for 6 months or more should get in touch with his social security office right away, the social security district manager said.

If he is between 50 and 65 years of age, he may be eligible to have his social security record frozen to protect his future right to disability payments, and also his and his family's rights to old-age and survivors insurance benefits.

"Unfortunately there is a lot of misunderstanding," Mr. Sadd said, "as to how disabled a worker has to be to get social security disability insurance benefits or to have his social security record frozen. The rules in the social security law for deciding whether a person is 'disabled' are different from the rules in some other Government and private disability programs."

To be found "disabled" under the social security law, he said, a worker must have a disability which, in the words of the law, make him unable "to engage in any substantial gainful activity." It must be the kind of physical or mental condition which shows up in the medical evidence, including his doctor's report, hospital reports, or special tests. It must have lasted for at least 6 months and be expected to continue for a long and indefinite time.

In general, he said "substantial gainful activity" means the performance of a substantial

amount of work with reasonable regularity in employment or self-employment. A person does not have to be completely helpless to qualify under the social security disability provisions, Mr. Sadd emphasized. Consideration is given to all of the facts in the individual's situation both medical and non-medical.

First consideration is, of course, given to the severity of his condition as shown by the medical evidence. This evidence must show that the person has a condition which makes him unable to perform significant functions such as moving about, handling objects, hearing, speaking, understanding, or reasoning, so that he cannot with his training, education and work experience engage in any kind of substantial gainful activity.

Examples of some impairments which would ordinarily be considered severe enough to prevent substantial gainful activity are:

1. Loss of two limbs.
  2. Progressive disease which has resulted in the physical loss or atrophy of a limb; such as diabetes, multiple sclerosis, or Buerger's disease.
  3. Disease of heart, lungs or blood vessels which has resulted in major loss of heart or lung reserve as evidenced by x-ray, electrocardiogram or other objective findings so that, despite medical treatment, it produces breathlessness, pain or fatigue on slight exertion, such as walking several blocks, using public transportation or doing small chores.
  4. Cancer which is inoperable and progressive.
  5. Damage to the brain or brain abnormality which has resulted in severe loss of judgment, intellect, orientation or memory.
  6. Mental disease (e.g., psychosis or severe psychoneurosis) requiring continued institutionalization or constant supervision of the affected individual.
- Loss or diminution of vision to the extent that the affected individual has central visual acuity of



Mrs. Jane Gavin, 36-year old widow from Ozone Park, N. Y., on June 6 became the 10-millionth person now receiving Federal social security payments.

Marion B. Folsom, Secretary of Health, Education, and Welfare, presented Mrs. Gavin with her first monthly check and a personal letter from President Eisenhower in a special ceremony in a new midtown Manhattan, N. Y., social security office.

Mrs. Gavin also received payments for her children, Patricia (age 10), and Joseph (age 7), who were with her at the presentation.

no better than 20/200 in the better eye after best correction, or has an equivalent concentric contraction of his visual fields.

8. Permanent and total loss of speech.

9. Total deafness uncorrectible by a hearing aid.

Mr. Sadd said most individuals with such serious disabilities are unable to work. There are cases, however, where a person with such a severe disability is working, or able to work, because of his special knowledge and skills. He would not be entitled to benefits, the district manager said, because he would be able to engage in substantial gainful activity.

A person might work occasionally or intermittently and this would not necessarily mean that he was able to engage in substantial gainful activity. Both the nature of the work and the amount of money he earned would have to be considered.

On the other hand, some persons with conditions somewhat less severe than the ones listed above might be found unable to engage in substantial gainful activity because of the actual facts in their cases. If a person's condition coupled with his work background, his lack of education, training and other physical and mental resources does in fact prevent him from working, he would have a disability which prevents him from engaging in substantial gainful activity, and would therefore be found eligible under the social security disability provisions.

## WPIX Strike Produces Substantial Results

*Twelve-Hour Stoppage at New York Independent TV Station Conducted By Members of Local 1212*

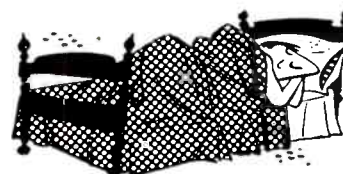
WPIX (TV) was off the air until approximately 9:30 p. m. on June 15, as the result of negotiations having broken down on the previous day. The best offer by the company, for a two-year agreement, consisted of a continuation of the four-year escalator—with a \$5 pay increase (with an additional \$5 increase on the fourth-year step of the escalator, during the second year of the agreement) and renewal of many of the conditions provided for in previous agreements.

When agreement was finally reached, while the strike was on, the escalator had been reduced to three years with a \$7.50 increase for the first year of the new agreement and a \$7.50 increase for the second year. The former eight-out-of-nine hours work day was reduced to eight straight hours, with a reasonable time for appropriate meals—together with a second meal period after 10 hours with a meal allowance of \$3.

Rest period premium pay has been increased from the former half-time level to a flat \$5 per hour. The previous progression to six weeks' severance pay after five years' service has been replaced by a one-week-per-year provision, to the maximum of 10 weeks. The duty relief of 10 minutes per hour for all except those assigned to Master Control has been extended to 10 minutes per hour for all hands. Re-hiring after layoff rights have been changed from "if available and otherwise qualified" to a strictly seniority basis and with recognition of a three-year term of claim.

Several other significant changes are included in the new agreement—it is only regrettable that a strike was necessary to accomplish the result. Interesting, however, is the sidelight that the decision to strike was made by an all-but-one vote to make it unanimous and that acceptance of the final agreement was based upon a similar ballot count.

"Climb out of that sack, Buddy! It's Union Meeting Night."



## Legal Burdens

*(Continued from page 19)*

position (which has stood for quite a few years now) that if a trade does not go on the job then it is not possible to conclude that there has been a secondary boycott. If people refuse to commence employment, that does not constitute a cessation of work or refusal to work. And so it may be that in situations of this sort, when the discussions start with the employer about the possibility of an agreement, if certain key trades do not go on the job in the course of construction, there might be no basis for levying the secondary boycott charge. There is one other possibility on which I don't place much emphasis because it involves a complicated legal issue. The courts have indicated a distinction between picketing on the one hand and shall we say pamphleteering on the other. In other words a carefully written handbill which makes an appeal to reason rather than says the job is unfair or anything of that sort, but explains the situation, can probably be distributed on the job without incurring any serious risks. That would be an expression of free speech. I would think myself that what comes out of this case is the following—if the construction reaches the point where the company which is going to operate radio and TV has an employee on the job, a picketing operation directed at that employee for the purpose of organizing him, specifically mentioning the name of the radio and television station, should be able to be performed without risk of legal liability. If that is not an available procedure, the most sensible thing to do would be to rely on the Joliet case. In these picketing situations it would be advisable to secure legal advice for the particular case because of the complexity of the law and its changing nature.

Now there are a number of general decisions in which I think you may be interested. First, there are three recent decisions of the Supreme Court of the United States—*Goodall-Sanford, Inc. v. Textile Workers* (40 LRRM 2118); *Textile Workers v. Lincoln Mills* (40 LRRM 2113); and *General Electric Co. v. U. E.* (40 LRRM 2119). These cases stand for this proposition, that where there is an agreement to arbitrate between the employer and the Union that the Union can go into the Federal District court for the purpose of getting that court to issue an injunction or decree of specific performance requiring the employer to arbitrate even though he refuses to do so. Second, that where an arbitration award has been entered that a suit can be filed in the Federal District Court to enforce the arbitration award. This is an issue which has been hanging fire for the last ten years. Section 301 of the Act, as you know, allows suits to be filed in the Federal District courts for breach of contract. There was substantial question as to whether that section of the Act could be used for the purpose of enforcing arbitration or enforce-

ing an arbitration award. The Federal District Courts and the United States Courts of Appeal had divided on the question. The Supreme Court now has spoken. This is a very serious and important development in the law. We have been in a position many times where a refusal to arbitrate or a refusal to comply with an arbitration award has given the simple alternative of deciding whether we would strike or just do nothing about it.

There has been a great deal of controversy about this matter from the standpoint of advisability. We had a great deal of discussion during the last few years about the Uniform Arbitration Act, which was proposed by the State Commissioners for uniform laws. The State Commissioners had proposed a uniform act which means that the State Commissioners propose it, the American Bar Association endorses it, then it goes to the various state legislatures for enactment. When that Act was under consideration there were quite a few labor union lawyers who were opposed to the idea of legal enforcement of arbitration. I may say that I was not one of them. I think that the majority of the men concerned with the problem as far as state legislation is concerned felt that labor would be better off having a place to go to compel arbitration when it has been agreed to in the labor agreement rather than just let it wander off in thin air. Now the whole controversy about the State Uniform Act really doesn't matter very much because there is an available procedure through the Federal District Courts to accomplish this purpose.

Another decision which is of general importance is *Lion Oil Company* (39 LRRM 2296). This is also a decision of the Supreme Court and has to do with the relationship of the 60-day cooling off clause to the provisions of an agreement relating to expiration or modification. You will recall that under the Act you have to give 60 days notice before the expiration date of the agreement. That notice has to be given to the employer and then followed up with 30 days notice to the State and Federal Mediation Service. If you don't comply with the notice provisions, the employees lose their status as employees so that the National Labor Relations Board would not have the power to effect reinstatement. There were decisions by a Circuit Court of Appeals which took the view that if you had an agreement which commenced January 1, 1955, let us say, and ended January 1, 1957, with a provision in it for reopening January 1, 1956, midway between the beginning and the end of the term, the Union could not legally strike at the reopening date even though the agreement authorized a strike at such time because 60 days notice was required before "expiration" and this was interpreted to mean only 60 days before January 1, 1957. The Supreme Court has definitely rejected that position. The Court has now ruled in effect that where you have a right to strike, regardless of whether the contract would expire at a later date, the 60-day cooling off provision

is a provision applicable to such period rather than to the final expiration date.

The next matter which I wish to discuss is the question of jurisdictional disputes in this industry. They are, of course, of very complex character. I am not going to try to make a statement on each and every aspect of the jurisdictional dispute provisions of this Act, but I think there is one development, which though technical is very important. The Act prohibits a strike over a jurisdictional issue unless the striking Union either is striking in support of a certification or has received an award under Section 10(K) of the Act covering the work in question. The procedure of the Act contemplates the following: Where there has been a stoppage for jurisdictional purposes, the aggrieved party files a charge. Then there is an investigation. It is provided that there shall be a 10(K) hearing, which is a hearing for the purpose of deciding the jurisdictional dispute and thereafter an 8(b) (4) (d) complaint may issue. This complaint alleges in effect that the Union has struck and has no support for its strike either in the certification or from a 10(K) award. Now it happens that early in the administration of this Act, the Board decided that caution was the better part of valor and read 10(K) out of the Act. The Board has taken a position for all these years amounting pretty much to this proposition—all we want to know is, to whom did the employer assign the work. As you know, the Board has generally refused to consider evidence on tradition, custom, practice and other considerations relative to the issue of which union should prevail in a jurisdictional dispute. There have been a few exceptions, where the

Board has not rubber-stamped the employer's assignment of the work—including one in this industry. We had a case with CBS where we secured a two to one decision in favor of the proposition that certain work for which the New York City Local had struck, was actually covered by the certification and the contract and therefore the strike was lawful. I believe that is one of about three or four such decisions in the last ten years.

Now we come to the new development—which is in a recent decision of the Third Circuit Court of Appeals. The Third Circuit Court of Appeals unanimously refused to enforce an order issued under 8(b) (4) (d) of the Act on the grounds that the Board had ignored the legislative history of the Act and had handled the case in such a way that section 10(K) had been nullified. Judge Hastie who rendered the decision stated that Congress had enacted a law providing for two separate hearings on two separate subjects. It was his view that the Board had improperly consolidated both proceedings into one 8(b) (4) (d) hearing. That, of course, is a decision of one Circuit Court of Appeals, and the final outcome will not be known until there has been further litigation.

I have tried to mention the more important cases which have been decided during the year which has elapsed since your last Progress Meeting. I am sure you will understand that if any of the questions which are the subject of this discussion should arise, that it will be necessary to make a specific review of the applicable decision before reaching a conclusion on your course of action.

## Technical Ceramic Electron Tubes

Electron tubes made of ceramics will prove of great value in atomic-powered and other high speed aircraft, W. R. Wheeler, design engineer of Sylvania Electric Products Inc., stated recently in Boston, Mass.

In a paper delivered before the Boston Chapter of the Institute of Radio Engineers' Professional Group on Electron Devices, Mr. Wheeler said that ceramic materials can endure intense nuclear bombardment far better than the glass components of conventional tubes. "For this reason," he declared, "it is possible that considerable shielding weight can be eliminated from the electronic systems of nuclear-powered planes."

The Sylvania engineer said that ceramic tubes can be operated at temperatures well above those tolerated by ordinary tubes. Many tubes require cooling or refrigeration in modern high speed aircraft usage, he said, pointing out that ceramic

## NOTES

tubes would permit elimination of refrigeration equipment with consequent weight reduction and improved aircraft performance.

Mr. Wheeler described the construction of a Sylvania "stacked" tube which uses ceramic parts extensively, even for the envelope which is customarily made of glass. The tube parts are stacked one upon the other in a radical departure from ordinary assembly methods. While possessing electrical characteristics comparable to conventional tubes, the ceramic stacked tubes are smaller than any counterparts.

Mr. Wheeler stressed the unusually stable life performance of stacked tubes under conditions of shock, vibration, and high ambient temperatures. He attributed this performance to the resiliency of the ceramic material, the ruggedness of the stacked construction, and the high-temperature outgassing employed in the manufacturing process.

# Station

# Breaks

## Toll TV Problem

FCC said it has a "duty" to go ahead and make proposals for toll TV.

The Commission outlined its views in answer to a letter from Rep. Emanuel Celler (D-N.Y.), chairman of the House Judiciary Committee. Celler had asked the FCC to take no action on subscription television until Congress has had a chance to pass on the subject.

"We agree," FCC Chairman John C. Doerfer wrote, "that Congress could reach the conclusion that use of radio frequencies for a subscription television service should be prohibited."

However, he added, "in the absence of congressional action on the amendment of existing law, the commission is obligated to abide by the provisions of the Communications Act and the administrative procedure act. In accordance we believe it is the commission's duty to make some disposition of the pending petitions."

The Commission pointed out that it has received the views it solicited on its proposals to conduct a "significant test" of subscription television. The deadline for replies to pay television proposals was July 22.

Doerfer also told Celler the Commission would "carefully take into account" his views on subscription TV. Celler has introduced a bill to prohibit a charge for broadcasts.

The Commission also enclosed a "memorandum of law" to Celler summarizing its conclusions that it has the necessary legal power to authorize a test of toll television.

Despite all this the Commission is expected to take months before deciding when and where to stage a trial run of pay-as-you-see television.

## Real Cool, Japan Man

Much has been done to soothe the savage in us, ranging from the weather reports of the "Monitor" weather girl to the palpitating postulations of Lawrence Welk.

One especially hot summer, a Tokyo radio

station drew much favorable comment with a program consisting solely of frog calls, broadcast from the side of a cool country pool. Listeners reported it made them feel cool, too.

## Capacitor Production

General Electric has begun quantity production of aluminum and tantalum electrolytic capacitors for television, radio, military electronic and other communication equipment at its new Irmo, S. C. plant.

Specially designed to satisfy controlled manufacturing requirements peculiar to electrolytic capacitors—tube-like devices which store electrical energy—the main manufacturing building is windowless and completely air conditioned with filtered air to minimize contamination of materials. In addition, humidity controls are applied where needed in large areas of the plant.

Process control laboratories are located at critical points along production lines to control processes and to continually affirm that high quality output is maintained.

Abundant water and electric power supplies were prime considerations in selecting the plant site, which lies alongside the Saluda River, with hydroelectric generating station of the South Carolina Gas and Electric Co. nearby.

Other considerations in the site selection included absence of salt air and freedom from certain types of atmospheric pollution for maximum protection of oxide film on aluminum-foil capacitors. In fact, aluminum foil must be kept so pure that it cannot be touched by human hands, and workers handling this material are required to wear white nylon gloves.

The plant includes equipment to test every unit produced for critical characteristics to assure that each capacitor is of optimum quality.