Award No. 8867
Docket No. TE-7503

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

UNION PACIFIC RAILROAD COMPANY (Northwestern District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Union Pacific Railroad (South Central and Northwestern Districts) that:

(1) Carrier violated the Agreement between the parties hereto, when on the 4th day of July, 1954, it required and permitted Mr. Norquist, a conductor, an employe not covered by the Telegraphers' Agreement, to receive, a copy and deliver Train Order No. 367, at Page, Washington.

(2) Carrier violated the Agreement between the parties hereto, when on the 14th day of July, 1954, it required and permitted Mr. Richards, a conductor, an employe not covered by the Telegraphers' Agreement, to receive, copy and deliver Train Order No. 366, at Page, Washington.

(3) Carrier violated the Agreement between the parties hereto, when on the 1st day of August, 1954, it required and permitted Mr. Miller, a conductor, an employe not covered by the Telegraphers' Agreement, to receive, copy and deliver Train Order No. 358 at Page, Washington.

(4) Carrier violated the Agreement between the parties hereto, when on the 13th day of August, 1954, it required and permitted Mr. McGlothlin, a conductor, an employe not covered by the Telegraphers' Agreement, to receive, copy and deliver Train Order No. 370 at Page, Washington.

(5) Carrier shall be required to compensate extra employe A. Pyle, for the violation occurring on July 4, 1954; senior idle

employes, extra in preference, for the violations occurring on July 14 and August 1, 1954, and extra employe R. W. King, for the violation occurring on August 13, 1954, for one day's pay (8 hours) at the minimum rate for telegraphers on Seniority District No. 6.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect an agreement, effective January 1, 1952, between Union Pacific Railroad Company (South Central and Northwestern Districts), hereinafter referred to as Company or Carrier and The Order of Railroad Telegraphers, hereinafter referred to as Employes or Telegraphers. A copy of said Agreement is on file with the National Railroad Adjustment Board and is, by reference, made a part hereof as though copied herein word for word.

The disputes set forth herein were handled on the property, in the usual manner and in accordance with the provisions of the Railway Labor Act, as amended, to the highest officer designated by Carrier to handle such disputes. The Carrier refused to adjust the disputes, in accordance with the Agreement, after such due and proper handling and the same are submitted to Third Division, National Railroad Adjustment Board, for final decision and Award.

This dispute involves interpretation of the Agreement between the Parties hereto, with reference to handling train orders at Page, Washington. An operator with classification of telegrapher-clerk was stationed at Page until February 16, 1954, when Carrier declared the position abolished. The assigned hours of the position were 11 P. M. to 8 A. M. with one hour meal period. The telegrapher-clerk was subject to call at all other hours.

In addition to duties in handling train orders, clearance cars, messages to train crews, reporting (OS'ing) trains, etc., the telegrapher-clerk was oftentimes called upon to copy messages for section-foreman and signal maintainer also stationed at Page. Page is in the midst of an area of many rock bluffs, which tower above the railroad tracks. Rock fences are placed to protect tracks. Frequently, especially during winter-time and wet periods rocks fall, necessitating calling the section foreman and maintainer. Since a motor car is used in the performance of their work, operating rules of Carrier require that line-up of train movements be secured before placing motor car on main-line.

After the declared abolishment of the position (telegrapher-clerk) at Page, Carrier required section foreman and signal maintainer to answer dispatcher's telephone, located in each of their homes. Line-ups were given direct by the train dispatcher to each of them. On many occasions the wife of the signal maintainer has been called by train dispatcher and required to flag trains for the purpose of having the crew report to the train dispatcher and she is not even an employe of the Carrier.

It is true that the instant claims do not involve other violations of the Agreement, but we felt that the Board should be advised of Carrier's attempt to divert work covered by the Telegraphers' Agreement to others, at this point. The four train orders involved in this dispute are as follows:

telegraphers at Page nor closer than 18 miles from there; the extra telegrapher's board is in the Chief Dispatcher's office at Spokane, 134.3 miles from Page. No extra telegrapher has headquarters closer than 25 miles from Page.

All data submitted by the Carrier is a matter of record with the Employes or has been presented to Petitioners and made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: As appears from the statement of claim, this is another case involving the alleged improper handling of train orders by conductors.

The situation on this Board reminds this referee of a story that has been current among railroad men for a long time. Years ago, when there was no automatic block control system, two telegraphers got crossed up on their instructions with the result that two freight trains on the same track traveling in opposite directions, loaded with live stock and fruit, were bound to clash head-on, whereupon one of the telegraphers said to the agent, "Brother, in a couple of minutes you are going to see the greatest conglomeration of hamburger and fruit salad you ever saw."

That there has been a head-on collision on this Board on cases involving the handling of train orders by other than telegraphers is now apparent to everyone, and this referee does not intend, by telling the above story, to minimize the seriousness of the situation at all.

As all the members of the Board know, this problem is not new to this referee. It is now seventeen years ago since he first started to work on this Division as a referee and in Award 1983 he made the following statement:

> "In the instant case and in Award No. 604 Claimant relies on various rules and decisions of the United States Labor Board, and in 604 the committee quotes from Decision No. 757 inter alia as follows: 'Thus, it is law by order and contract that employes whose duties require the transmitting and/or receiving messages, orders and/or reports of record by telephone in lieu of telegraph are properly classified as coming under the Telegraphers' schedule and such duties belong exclusively to that class.' We think this is as accurate a statement as appears anywhere on the issue before us. It will be noted that before the items of work become exclusively the property of the telegraphers under the scope rule that the items must be 'of record,' which means that the conversations are important enough in the operation of the railroad to be made matters of the record. The best example of this is in relation to transmission of train orders."

Award 1983 did not involve the now well-known "Train Order Rule", Rule 62 in the current agreement, and which is relied upon by the Carrier here as a defense, but the award is based upon an analysis of the scope rule which for our purpose is similar to the scope rule involved in the current agreement. Award 1983 was a denial award, and we reached the conclusion we did because of the Carrier's careful delineation of the duties

of the "track walker" who was described as a "watchdog," to show that the work he was doing was not covered by the scope rule.

In passing we notice that the rugged terrain described in Award 1983 is similar to that surrounding Page, Washington, the sites of the instant claim.

Ambiguity conceded, both as to the scope rule and Rule 62, parties are agreed that resort must be had to the "custom, practice and other indicia" on this Carrier in an attempt to arrive at the interpretation to be placed upon the rules which will govern the disposition of this claim.

The telegraph office at Page was abolished on February 16, 1954. No one questions the right of the Carrier to do that, but such abolition of a position is always subject to the qualification that if any of the work covered by the scope rule remains it must be done by someone covered by the agreement. That train order work still remains at Page is not denied.

Now let us see what has been the "custom, practice and other indicia of understanding" here. First the current agreement lists Page as one of the stations covered and the agreement bears the signature of Mr. Newman, Assistant to Vice President, and on August 4, 1954, Mr. Newman stated in his letter to Mr. Herrea "* * * it is necessary that I advise you that Page has not been a continuously open telegraph office for forty years; it has been open intermittently during periods of heavy freight train movements on the territory between Wallula and Ayer over a period of more than forty years."

Neither on the property, nor here, does the Carrier seek to segregate these claims so we assume that Mr. Newman's explanation of what happened on August 1, 1954 is typical of the basis for all of them. As to that he says—"Conductor Miller was in charge of Extra 1361 West and was at Page for No. 298, No. 298's train was derailed west of Page and it was necessary for Extra 1361 to assist that train in clearing the main track. Conductor Miller was given a work order by the train dispatcher to give him authority to use the main track in assisting with the derailment as a work train and to cancel his authority for movement beyond Page as an extra west." It is not contended by anyone that the situation constituted an emergency.

This brings us to a discussion of the letter of Mr. McAllister's (General Manager Department of Operation of the Carrier) which reads as follows:

"September 28, 1955
C 520-32-3

"Mr. H. W. Corbett
General Chairman, ORC&B
P. O. Box 150
Pocatello, Idaho

Dear Sir:

My letter of August 30, above file, and your letter of September 9 pertaining to conductors copying train orders from dispatchers in the territory north of Hinkle:

I note that these cases all dated back prior to the time that I started investigating this practice. I handled it further with Superintendent Kimmell and the dispatching force at Spokane and there are positive instructions out that no conductors will be given a train order on the phone unless it is in the case of an emergency to avoid a tie-up of some kind and each and every one of these cases is to be reported to this office.

As I advised you before, it is not our intention to attempt to have conductors copying train orders in lieu of operators.

Yours truly,

Original signed
A. McAllister"

Of course, the Carrier seeks to destroy the impact of this letter by saying that it refers only to those stations where no telegrapher is employed, but if that were true why should Mr. Newman try to tie these cases into the "emergency" language of Mr. McAllister's letter?

Mr. McAllister having thus added the emergency provision to Rule 62 places this case within our holding in Award 6639, and that being an award of this referee we will elaborate upon it to show why we believe it persuasive in the instant case.

It is true that the "Opinion of Board" in that award discusses only the emergency section (C 1) of Rule 21 in that case, but rule 21 itself in the D. & R. G. contract is identical with rule 62 in the agreement before us except for the use of the words "contract" for "schedule" and "operator" for "telegrapher."

Even assuming for the moment that Page is not an office where a telegrapher is employed, the situation in Award 6639 is the same. There never had been such offices at either Red Cliff, Colorado, or Scofield, Utah, where the derailments took place. There was no dissent to Award 6639.

We think it is fair to assume that when Mr. McAllister was writing about "emergencies" he must have had in mind something like the definition in the D. & R. G. contract because it or its counterpart appears in a number of Carrier contracts.

It may be purely coincidental that part of Mr. McAllister's language is like that found in a letter on a similar dispute on Norfolk Southern Railway which reads in part: "It is not our purpose to require conductors to handle train orders, excepting under conditions of an emergency nature, such as accidents, personal injury, washouts, fires, engine failure, or such other similar causes." See Award 8687.

We now come to Carrier's reliance on Award 6071, which of course is in conflict with Award 6639 and is on this same carrier. Naturally we think Award 6071 is wrong, but even assuming its correctness as applied to the facts in that case it is not controlling here, because there no telegrapher had ever been employed at Boise Junction, while in the instant case the service is still intermittent or seasonal, and it is conceded that during the seasonal operation telegraphic service is needed at Page and all we

are saying is that during such times telegraphers must be given the work or paid for not getting it.

Carrier's Exhibit T consists of three affidavits of dispatchers to the effect that telegraphers have been used intermittently at Page since before World War I but that all records prior to 1946 have been destroyed.

Carrier's Exhibit U consists of 19 pages of instances where the Carrier has used others than telegraphers to handle train orders since 1950. As to them we make no comment because one or all of them may be the basis for a claim.

No good purpose would be served by prolonging this discussion. We can sum it all up by quoting from Award 5081 (a denial award)—

> "As long as the Carrier has within its power the right to discontinue a telegraph position when work of that position ceases to exist, it must be held under a reciprocal duty to reestablish old positions abolished and to establish new ones where a need arises."

We think this has particular application to the intermittent service at Page, the site of this dispute.

We think, too, that the time has come when we should put into exact language what has been expressed compositely in the scores of awards on this subject, and the basis of this award, the rule proposed by the organization as quoted by the Carrier in its "Statement of Facts and Position" in Award 5081 as follows:

> "Only employes covered by this agreement shall be required or permitted to handle train orders or clearance cards, or to report or block trains or to transmit or receive by telephone or telegraph; train orders, clearance cards, messages, train lineups, reports of record, or other information at stations where an employe covered by this agreement is employed, except in case of extreme emergency, in which event the employe at such station shall be notified and paid a call.
>
> If such service is performed AT OTHER POINTS by employes not covered by this agreement, the senior idle extra employe shall be notified and paid a minimum of one day's pay for each violation. (See Carrier's Exhibit 'B'.)"

In conclusion, we say that the Carrier violated the agreement and the claim should be sustained.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 1st day of July, 1959.

DISSENT TO AWARD NO. 8867, DOCKET NO. TE-7503.

The Opinion and Award in this dispute can only be described as ludicrous. It represents the shallow, illogical and non-sequitur thinking. The "introductory anecdote", as well as other statements made by the author, ably exemplifies the cavalier treatment which has been given to this dispute. The so-called "punch line" of the hamburger and fruit salad story may have been intended otherwise, but the language used aptly characterizes the reasoning of the award which, in the last analysis, is nothing more than a "conglomeration" of inconclusive views, all made without pretense of any effort to devote serious study to the dispute or to rationalize the arguments advanced and resolve the problem presented.

The issue in this dispute was clear-cut and was so recognized by both parties in the Record. The author of this Award also outlined this clear-cut issue in the following statement: "* * * parties are agreed that resort must be had to the 'custom, practice and other indicia' on this Carrier in an attempt to arrive at the interpretation to be placed upon the rules which will govern the disposition of this claim."

Yet, we find nothing in the "Opinion of Board", which, incidentally, teems with factual errors, remotely touching upon the real issue.

The only Awards of this Board cited as authority for the conclusions reached are Awards 1983 and 6639 rendered by this same author. Neither of those Awards has the remotest bearing on the issue involved.

The author's reliance on his earlier Award 1983 is inexplicable. It appears that the reason for such reference is to show prior experience with "this problem". But the "problem" involved in Award 1983 was not "this problem" which is clearly demonstrated by the award itself. There, no train order rule was involved. In sum, his discussion of that award amounts to nothing more than a recognition that the only similarity between Award 1983 and the instant case is the "rugged terrain" which apparently surrounded the stations involved in the two disputes.

Significantly, the same author made this misstatement in Award 1983:

> "In the instant case and in Award No. 604 Claimant relies on various rules and decisions of the United States Labor Board, and in 604 the committee quotes from Decision No. 757 inter alia as follows: 'Thus, it is law by order and contract that employes whose duties require the transmitting and/or receiving messages, orders and/or reports of record by telephone in lieu of

telegraph are properly classified as coming under the Telegraphers' schedule and such duties belong exclusively to that class.' "

In Decision No. 757 of the United States Railroad Labor Board there is no such statement or language; nor did the "committee" in Award 604 "quote" any such language from Decision No. 757.

The author, also intent on using his Award No. 6639 as a precedent, recognized, nonetheless, that the decision therein was relevant to the instant dispute only if Train Order Rule 62, here involved, corresponded to Train Order Rule 21, there involved. But—the two rules are vastly different. Here, Train Order Rule 62 gives telegraphers the exclusive right to handle train orders **only at telegraph or telephone offices where a telegrapher is employed,** whereas Train Order Rule 21 involved in Award 6639 gives telegraphers exclusive right to handle train orders **at all points except in an emergency.**

Train Order Rule 62, here involved, thus had to be "amended" before Award 6639 could be material, let alone persuasive. But—this obstacle offered no impediment. It was accomplished through the mere expedient of saying that General Manager McAllister's letter of September 28, 1955 to Conductors' General Chairman Corbett— "* * * thus added the emergency feature to Rule 62. So, it was held that an exchange of letters between the General Manager and the General Chairman of the **Conductors'** Organization operated to amend Rule 62 of the **Telegraphers' Agreement.** How far can we go in such non-sequitur conclusions?

In effecting this non-sequitur conclusion, also overlooked was the time element. The author says that he was persuaded to his conclusion in the instant case by the same reasoning followed in Award 6639, and then says that the instant case did not come within the holding of Award 6639 until the emergency feature was added to Rule 62 by the McAllister letter. How could the author be persuaded by Award 6639 in reaching the decision he did in the instant case when the change in Rule 62, allegedly brought about by the McAllister letter and which was necessary before Award 6639 would become relevant, was not written until September 28, 1955, over one year after the date of the occurrences involved in the claims in the instant dispute?

At this point in the Opinion we find another of the glaring errors so evident throughout. The following statement is not correct:

"Even assuming for the moment that Page is not an office where a telegrapher is employed, the situation in Award 6639 is the same. There never had been such offices at either Red Cliff, Colorado or Schofield, Utah, where the derailments took place."

In Award 6639 it was clearly stated by the Employes that both Red Cliff and Scofield **were** "open telegraph communication facilities until 1946 or 1947". Such an obvious misstatement of fact is inexcusable where it results in what the author thinks is a precedent.

Further distortion appears in the assertion that the coincidence of General Manager McAllister's understanding of an emergency was similar to that found in Award 8687 in which an emergency is described as consisting of "accidents, fires, engine failure or such other similar causes."

The faulty reasoning and non-sequitur conclusions with respect to matters relating to custom and practice stand as a flagrant abuse of the referee process.

After acknowledging that the issue ultimately turned on **interpretation of the rules** as determined by "custom, practice and other indicia **on this Carrier**", the author then ignored the clear indications of practice offered by the Carrier and chose instead to cite the McAllister letter, apparently not as evidence of practice but as "* * * indicia of understanding * * *". But—in order to stand on the McAllister letter to support views concerning "practice", it was necessary to improvise, surmise and assume as to its import, but he nevertheless relied solely on the letter, notwithstanding the many positive indications of "practice" opposing his ideas concerning the meaning of the McAllister letter.

There was no problem in this case as to what was the "custom and practice". Employes conceded that it was a matter of "custom and practice" on this Carrier for conductors to copy train orders at points where telegraphers were not employed (R., p. 255). At the Referee hearing as well as in the submissions, Employes argued that it was the custom and practice in the railroad industry generally which controlled. This argument was apparently rejected by the Referee's inquiry as to what the custom and practice was "here", and he then promptly proceeded to ignore the record before him relating thereto.

The author states, with regard to the McAllister letter that "**of course**, the Carrier seeks to destroy the impact of this letter by saying it refers only to those stations where no telegrapher is employed * * *." We need but briefly note in passing that by the use of the words "of course" in the foregoing statement the author demonstrates prejudgment and lack of an open mind in this dispute. Actually, this is another one of the many misstatements as the Carrier stated the exact opposite and said that the letter in question referred only to points where **telegraphers were employed** (R., p. 228). The Carrier further pointed out, without denial by the Employes, that the instructions referred to in General Manager McAllister's letter did not apply to the factual situation involved in the instant claim. The absence of any dispute on this point was brought out at the Referee hearing.

No excuse is given for the author's failure to recognize the proof of practice evidenced by the three affidavits in Carrier's Exhibit T. He notes that all records prior to 1946 have been destroyed. The Organization did not dispute the statements contained in the affidavits and in the absence of the actual train order records, the ajdavits constituted the best evidence of practice.

The author dismisses the evidence in Carrier's Exhibit U without comment. He states that since each of the occurrences shown in the exhibit "may" have been protested by the Organization in the form of claimed rule violations, the exhibit could have no value as a true indication of practice. This is another assumption and is contrary to the unrefuted facts as developed in the record. It was pointed out that only two claims were being held in abeyance pending settlement of the instant dispute and at the Referee hearing it was again shown that only two other claims were pending (these two, involving occurrences of February 4 and 17, 1955, are included in Exhibit U). The Employes, at the Referee hearing, conceded this to be true. In view of the evidence in the record, there could be no justification

in ignoring the exhibit as an indication of "practice" by indulging in assumption.

No attempt was made to justify the total disregard of the evidence of "practice" included in the docket of Award 6071.

Another indication of that lack of an open mind, so essential in a Referee, is the statement—"Naturally we think Award 6071 was wrong." No reasons are outlined for such thinking.

Let's pause here for a moment and see how this author's Award 1983 has fared and how Award 6071 has fared in awards involving the copying of train orders at blind sidings subsequent to the adoption of Award 6071.

In Award 6487 involving an identical issue Award 1983 was cited to the Referee. The claim was denied.

In Award 6784, which was a re-presentation of the same dispute as was decided in Award 6487, Award 1983 was cited to the Referee, who said:

> "Study of the docket in the earlier case reflects that the same Awards were cited as controlling and, in substance, the same arguments were made. We find no glaring error in Award 6487 such as to justify reversal. As stated in paragraph 5 of the Memorandum to Accompany Award 1680, and reaffirmed in Award 6710:
>
> > 'If a case is presented involving the same controlling facts and the same rule as were involved in a previous Award, and the same data and material arguments are presented as were presented in the previous case, the Award in the previous case should be followed * * *. For in such a situation there is nothing new which has not been passed upon and taken into account before, and the only question is whether the personal judgment of the latter referee * * * should be substituted for that of the former referee.'
>
> "A contrary course would tend to discourage settlements between the parties and discourage prompt compliance with Awards rendered."

Here we had the same controlling facts and the same rules as were in evidence in Award 6071 and as affirmed by three referees, Award 6071 should have controlled here.

In Award 6863 again involving the identical issue and similar rules, Award 1983 was cited to the Referee. The claim was denied.

In Award 6959 involving, as here, copying train orders at blind sidings, Award 1983 was cited by Employes, Award 6071 by Carrier Member. The claim was denied.

In Awards 7401 and 7402 also involving, as here, copying train orders at blind sidings, Award 1983 was cited to the Referee and the reasoning therein rejected.

In Award 7953 there was involved the copying of one train order at a blind siding (here the copying of four train orders is involved). Labor Member cited Award 1983. Carrier Member cited Award 6071. The reasoning in Award 1983 was rejected; the reasoning in Award 6071 was followed and the claim was denied.

In the light of these awards there can be no question as to the status of Award 6071 as a controlling precedent.

The author also says that Award 6071 is in conflict with the author's Award 6639. There was and is no conflict between the two Awards because the latter Award had the specific and restrictive train order rule, not here in evidence.

We reiterate. When a letter written more than a year subsequent to the dates of this dispute is taken as a basis to say that this Carrier has amended its Agreement with the **Telegraphers' Organization,** it demonstrates faulty reasoning; and, not content with the definition of "emergency" as given in the General Manager's letter of September 28, 1955, in the Record, the definition of "emergency" is extracted from the D&RGW Agreement in Award 6639 and attributed to General Manager McAllister.

In the concluding paragraphs of the Opinion the author steps beyond the function of this Board and, instead of interpreting the rules of the Agreement before him, which is our sole function, attempts to write a new rule for the parties. While this dispute concerns only **train orders,** the proposed language covers, in addition to train orders, clearance cards, reporting and blocking of trains, messages, train line-ups, reports of record and other information. And—all of this despite the fact that the parties are now negotiating on the subject.

This Division stated in early Award 389 that it was beyond the authority of this Board to alter the terms of an agreement between the parties. The same limitation on our authority has been affirmed in over one hundred subsequent Awards. In late Award 8256, this same author reaffirmed it by this language, "* * * We have no right to legislate for the parties here", but erroneously departed therefrom here.

The Award is patently unsound and incorrect, and, for the reasons stated, among others, we dissent.

/s. J. E. Kemp

/s/ R. M. Butler

/s/ W. H. Castle

/s/ C. P. Dugan

/s/ J. F. Mullen

COMMENT ON DISSENT TO AWARD NO. 8867, DOCKET TE-7503.

Dissenting opinions usually amount to little more than restatement of the losing arguments made to the referee and, therefore, merit no comment.

The present dissent is typical, but it contains some references to Award 1983 that, in my opinion, require brief comment.

In Award 8867 the referee mentioned Award 1983 as evidence of the fact that he had previously dealt with the question of telegraphers' rights in relation to the work of handling communications of record. The Carrier Members, in their dissent, attack not only the author of the two awards, but also the content of Award 1983.

Award 1983 denied a claim because the subject matter was held not to conform to the principle, there outlined, governing the right of telegraphers to handle communication work. It was adopted seventeen years ago by a majority of the Division consisting of Referee Bakke and the CARRIER members. The Carrier members did not at the time, nor at any later date prior to the present dissent, voice any disapproval of their award.

I believe it is a little late for the Carrier members to attempt to discredit their own award, which has stood for seventeen years as an unchallenged statement of the right of telegraphers to perform the work involved in transmission and receipt of messages, orders and/or reports of record, the best example of which is a train order.

J. W. Whitehouse,

Labor Member.