

**THE PUBLIC REVIEW BOARD  
INTERNATIONAL UNION, UAW**

APPEAL OF:

VICKIE TURNER, Member  
UAW LOCAL UNION 148,  
REGION 5  
(Lakewood, California),  
Appellant,

-vs-

CASE NO. 1490

INTERNATIONAL EXECUTIVE BOARD, UAW  
(THE UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA),  
Appellee.

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**DECISION**

(Issued September 2, 2005)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,  
Prof. Benjamin Aaron, Prof. Janice R. Bellace,  
Prof. James J. Brudney, Prof. James E. Jones,  
Jr., Prof. Maria L. Ontiveros, and Prof. Paul C.  
Weiler.

APPEARANCES: Wilbert D. Sonnier, Vickie T. Turner and  
Micheal Turner on behalf of appellants; Eunice  
Stokes-Wilson on behalf of the International  
Union, UAW.

We consider Vickie Turner's claim that President Gettelfinger exceeded his authority under the International Constitution when he directed Local Union 148 to delete an amendment to its bylaws making the editor of the Local Union newspaper a full-time employee.

**FACTS**

Local Union 148 publishes a newspaper known as the *Air-Scoop*. The editor and assistant editor of the *Air-Scoop* are elected for a three year term.<sup>1</sup> Appellant Vickie

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<sup>1</sup> The *Air-Scoop* is an official publication of Local Union 148 established in accordance with Article 11, §1, of its Bylaws which provides as follows:

Turner was elected editor of the *Air-Scoop* during general elections conducted at Local 148 in May 2002.<sup>2</sup>

The compensation to be paid to Local 148's officers and employees is described in Article 9, §2, of its bylaws. Prior to July 2001, the position of *Air-Scoop* editor was a full-time position. Article 9, §2(c), of the bylaws updated on April 22, 1981, provided that the editor would be paid a weekly salary of \$192.80.<sup>3</sup> The compensation paid to the editor was changed in 1997 to a salary described as "\$20.00 weekly less than the President."<sup>4</sup> In July 2001, Article 9, §2, of the Local's bylaws was amended to provide that the editor would be paid on a lost time basis with an additional weekly expense allowance of \$15.00.<sup>5</sup>

At a membership meeting on April 24, 2003, a motion was introduced to approve an amendment to the Local 148 Bylaws that restored the editor to a full-time position, and also authorized vacation pay, holiday pay and sick pay for the Local's three full-time officers. The amendment proposed adding the following paragraphs to Article 9, §2:

"(c) The office of the Editor is a full-time salaried position. The weekly salary of the Editor shall be \$20.00 per week less than the President. The Editor's salary will be adjusted with all applicable General Wage Increases (GWI's), Cost-Of-Living-Allowances (COLA's), Lump Sums, Gainsharing and/or Profit Sharing as specified and in accordance with the provisions of the current Collective Bargaining Agreement (CBA). Any dollars per hour breakdown for Gainsharing and/or Profit Sharing and/or Lump Sums during his/her term of office will be calculated utilizing the same formula used for members in the plant.

(d) Vacation pay and Sick pay for the President, Financial Secretary-Treasurer, and Editor shall be in accordance with the applicable provisions of the current collective bargaining

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"(a) There shall be published at least semi-monthly, by the Local Union, an official publication known as the *Air-Scoop* (or its successor), designed to educate, enlighten and to acquaint the membership with the activities of Local 148, UAW.

(b) The *Air-Scoop* publication shall be under the supervision of the Editor, subject to Article 29, Section 7, of the Constitution.

(c) The Editor and Assistant Editor shall be democratically elected for three (3) years."

<sup>2</sup> Turner's surname at the time she was elected was Meadows.

<sup>3</sup> Record, p. 82.

<sup>4</sup> Record, p. 86.

<sup>5</sup> Record, p. 88.

agreement. The President, Financial Secretary-Treasurer, and Editor will be able to bank vacation time in accordance with the collective bargaining agreement.

(e) Holiday pay for the President, Financial Secretary-Treasurer and Editor will be provided in accordance with the applicable provisions of the current collective bargaining agreement. Under no circumstance will there be any premium pay for holidays worked. This provision shall be applicable for all holidays specified in the current collective bargaining agreement.”<sup>6</sup>

The motion to support this amendment to the bylaws was adopted by a vote of 160 to 69.<sup>7</sup>

On April 30, 2003, Local 148 Recording Secretary Jacki Harris forwarded the amendments to Local 148’s bylaws to International President Ron Gettelfinger. Harris’ letter to Gettelfinger states:

“Enclosed please find the recent Bylaws changes passed by a 2/3 majority at our membership meeting on April 24, 2003.”<sup>8</sup>

At around the same time, Local 148 President Bill Schultz issued a notice to the membership stating that the amendments to the Local Union’s bylaws adopted at the April 24, 2003, meeting had been submitted to the UAW International Executive Board (IEB) for ratification.<sup>9</sup> Meanwhile, on May 1, Schultz wrote a letter to President Gettelfinger in which he argued that the Local Union could not afford a full-time editor and that the expense of such an employee was not necessary. He stated:

“I have done everything in my power to convince our membership that this bylaws change would create a financial hardship on the local. I explained to the membership that most locals in the UAW structure do not operate with a full-time salaried editor and the job does not require 40 hours a week to perform.”<sup>10</sup>

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<sup>6</sup> Record, pp. 55-56

<sup>7</sup> Record, pp. 52-53.

<sup>8</sup> Record, p. 54.

<sup>9</sup> Record, p. 57.

<sup>10</sup> Record, p. 322.

Gettelfinger responded to Schultz on May 16. He told Schultz that the Local 148 bylaws should be submitted in the customary way and they would be reviewed by the International Union. Gettelfinger went on to address Schultz's comments on the bylaw amendment creating a full-time editor as follows:

“On the issue of a full-time local union editor, I am in full agreement with you. The local union is hardly in a financial position to be adding a full-time salaried editor. My office has been in contact with the Auditing Department and confirmed the current local union financial status. All of this to say that at this point in time, a full-time editor would not be a necessary expense.”<sup>11</sup>

On the same day, Gettelfinger also advised Recording Secretary Harris that the Local 148 bylaws had not been properly submitted for review by the IEB. Gettelfinger instructed Harris to submit the entire set of bylaws with the changes underscored in red. Gettelfinger further suggested some amendments to the bylaws concerning mileage expenses, language concerning leases and long-term agreements, and the appropriate title for the Civil Rights Committee. Finally, Gettelfinger directed Harris' attention to a letter he had written to President Schultz regarding the amendments to Article 9, §2(c), (d) and (e), of the bylaws.<sup>12</sup> Harris resubmitted the bylaws on June 6, 2003.<sup>13</sup>

On June 26, President Gettelfinger forwarded to Harris a “Report of Action” on the Local Union bylaws. The report instructs the Local to make a number of amendments to the proposed bylaws and to resubmit them to the IEB. The “Report of Action” includes an instruction to delete the reference to the editor in Article 9, §2(c), (d) and (e).<sup>14</sup> Article 9, §2 of the Local 148's current bylaws, last updated April 2004, does not contain the amendment adopted at the membership meeting on April 24, 2003.

According to a statement filed on behalf of Vickie Turner by her representative, Wilbert Sonnier, Turner first learned that the Local had been instructed to delete the amendment to the bylaw on June 26, 2003. Sonnier wrote:

“A purported letter from International President Ron Gettelfinger ... was read by Recording Secretary Jacki Harris ... at the June 26, 2003, [membership meeting] repealing the bylaws change approved by the membership. Prior to this date, appellant had no knowledge of the

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<sup>11</sup> Record, p. 60.

<sup>12</sup> Record, p. 58.

<sup>13</sup> Record, p. 340.

<sup>14</sup> Record, p. 342

International Executive Board's decision to repeal the bylaw change enacted by the membership on April 24, 2003. ..."<sup>15</sup>

Turner appealed the ruling stated in Gettelfinger's letter of May 16, 2003, that a full-time editor would not be a necessary expense for the Local Union to the IEB on July 26, 2003.

In support of Turner's appeal, Sonnier wrote that in August 2002, Local 148 President Bill Schultz began to refuse to authorize enough lost time for Turner to perform her duties as editor. Sonnier reported that member Joyce Sonnier introduced a proposed amendment to the bylaws making the editor a full-time employee in response to Schultz's interference with Turner's supervision of the *Air-Scoop*.<sup>16</sup> Sonnier argued that Gettelfinger's May 16 correspondence with Recording Secretary Harris and President Schultz amounted to a direction that the Local should delete the amendments approved by the membership making the editor a full-time employee.<sup>17</sup> Sonnier insisted that nothing in the Constitution supports President Gettelfinger's authority to direct the Local to repeal properly adopted amendments to its bylaws. Sonnier maintained that the determination whether the expense of a full-time editor was necessary within the meaning of Article 46, §1, was for the membership to decide, rather than the International President or the IEB. He asserted:

"There is absolutely nothing unconstitutional about a local union paying its elected editor a salary. There is no written International policy preventing a local union from paying its editor. Therefore, since paying a local union editor does not contravene the UAW Constitution or an International policy, the International Executive Board's repeal of a duly approved bylaw change was inappropriate and must be reversed."<sup>18</sup>

Furthermore, Sonnier charged that President Gettelfinger acted unreasonably and in bad faith when he declared that the expense of a full-time editor would not be a necessary expense for Local Union 148. He noted that the International had approved the provision creating a full-time editor for many years in the past. He argued that Gettelfinger should have considered the Local's reasons for having approved this amendment before he made his ruling. Sonnier asked the IEB to reverse President Gettelfinger's direction to delete the provisions relating to the editor from Article 9, §2(c), (d), and (e), of the Local 148 Bylaws.<sup>19</sup>

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<sup>15</sup> Record, p. 64.

<sup>16</sup> Record, pp. 66-67.

<sup>17</sup> Record, p. 71.

<sup>18</sup> Record, p. 76.

<sup>19</sup> Record, p. 80.

The International President's office determined that a hearing was unnecessary on Turner's appeal and President Gettelfinger's staff prepared a report on his behalf for the IEB based on the information provided by the appellant and the Local Union. Staff's report notes that under Article 37, §3, of the International Constitution, all local unions are required to establish bylaws and to submit them to the IEB for ratification.<sup>20</sup> Staff declared that the IEB had the authority pursuant to Article 12, §1<sup>21</sup>, of the International Constitution to determine that the expense of a full-time editor was an unnecessary expense for Local Union 148.<sup>22</sup> In support of this position, staff cited the Public Review Board's decision in *Shinn v. Region 1A, UAW*, 6 PRB 250, (1991), upholding the authority of the International President and the IEB to declare what is a necessary expenditure of union funds. Staff concluded that the membership does not have the authority to overrule a determination by the IEB or the President that an expense is unnecessary. Staff maintained that President Gettelfinger was acting within the scope of his authority under Article 13, §8<sup>23</sup>, of the Constitution when he directed Local 148 to eliminate the language from its bylaws making the editor a full-time position.<sup>24</sup>

The IEB adopted staff's report as its decision and notified the parties on March 10, 2004. Turner appealed the IEB's decision to the PRB on April 6, 2004. On September 2, Presidential Administrative Assistant Eunice Stokes-Wilson forwarded Turner's appeal to the PRB for processing. In her cover letter to the PRB, Stokes-

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<sup>20</sup> Article 37, §3, of the International Constitution provides as follows:

"It shall be mandatory for all Local Unions to establish bylaws and submit them to the International Executive Board for ratification. Bylaws, although enacted by a subordinate body, are not effective until submitted to the International Executive Board except for those enacted pursuant to Section 5 of this Article. Bylaws, once submitted remain effective unless repealed by the International Executive Board, pursuant to Article 12, Section 5 of this Constitution."

<sup>21</sup> Article 12, §1, of the International Constitution provides as follows:

"The International Executive Board shall execute the instructions of the International Convention and shall be the highest authority of the International Union between Conventions, subject to the provisions of this Constitution, and shall have the power to authorize strikes, issues charters, and punish all subordinate bodies for violation of this Constitution."

<sup>22</sup> Record, p. 181.

<sup>23</sup> Article 13, §8, of the International Constitution provides as follows:

"The International President shall decide disputes or questions in controversy, including all questions involving interpretation of this Constitution, except such cases as follow the procedure and conditions as outlined in this Constitution; all her/his decisions being subject to appeal, first to the International Executive Board and then to the Convention. Notice in writing of appeal of any decision of the International President must be filed with the International Secretary-Treasurer and the International President within thirty (30) days from date of decision."

<sup>24</sup> Record, p. 182.

Wilson stated that Article 12, §5,<sup>25</sup> of the Constitution authorized the International President to direct the Local to eliminate the provision for a full-time editor based on his conclusion that this was not a necessary expense for Local Union 148, rather than Article 13, §8, as indicated in staff's report to the IEB.<sup>26</sup> Furthermore, Stokes-Wilson argued that the decision to repeal the bylaw as being contrary to the requirement of Article 46, §1, that local union funds be used only to defray necessary expenses was not subject to review by the Public Review Board. In support of this contention, Stokes-Wilson cited our decision in *Local Union 145, UAW v. International Executive Board*, 3 PRB 363, (1982), in which we stated that we could find no Constitutional authority for the PRB to review the judgment of the IEB in approving or disapproving bylaw amendments based on policy considerations.<sup>27</sup>

We heard the parties in oral argument on February 5, 2005. Unfortunately, the hearing failed to clarify our understanding of the exact procedures followed by the International Union when bylaws are submitted to the International Executive Board for approval pursuant to Article 37, §3, of the International Constitution, as well as the customary procedures used for repeal of bylaws pursuant to Article 12, §5. Accordingly, we requested post-hearing briefs addressing particular questions about the procedure generally followed when bylaw amendments are submitted for approval, and about the procedures followed in this particular case. The arguments presented in the post-hearing briefs are incorporated in our summaries of the parties' respective positions.

## ARGUMENT

### **A. Vickie Turner, by her representative, Wilbert Sonnier:**

It was improper for President Schultz to write to President Gettelfinger on May 1, 2003, in order to solicit the repeal of the bylaw amendment duly adopted by the membership of Local 148. During the meeting on April 24, 2003, Schultz argued passionately with the membership not to approve the bylaw amendment. The membership evaluated Schultz's argument that the Local could not afford a full-time editor and rejected it. If Schultz disagreed with the membership's conclusion, his proper recourse was to appeal the membership's action pursuant to Article 33 of the Constitution.

In his letter to Gettelfinger, Schultz referred to an audit report prepared by International Auditor Deborah Haser dated October 2, 2002, to support his position that the Local Union should not have adopted the amendment. While that audit report does instruct the Local Union officers to establish and maintain strict control over

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<sup>25</sup> Article 12, §5, provides as follows:

"It [the IEB] shall repeal any bylaws of any subordinate body which do not conform to this Constitution."

<sup>26</sup> Record, p. 216.

<sup>27</sup> 3 PRB 363, at 364.

expenditures, it also specifically states that the Local Union's overspending was primarily for excessive election expenses. In addition, the auditor admonished the Local Union officers for approving lost time based on vague terms such as "assisting the president" or "union business." The auditor's notes dated September 12, 2002, indicate that during the period from April through June 2002, the Local Union spent \$19,840.17 to reimburse members for assisting the president. The people who were being paid this lost time were unelected supporters of President Schultz.

Meanwhile, in August 2002, as a result of a political rift, Shultz began to refuse to authorize enough lost time for Vickie Turner to do her job as editor. Furthermore, the records show that Turner was the only elected officer whose authorized lost time was significantly reduced. *Air-Scoop* is supposed to be a bimonthly publication, but at the time that the membership adopted the amendment making the editor a full-time employee of the Local, because of Schultz's interference, Turner had been unable to produce an edition of the *Air-Scoop* during the preceding four months.

It is clear from the record that the Local's bylaws had not been properly submitted when President Gettelfinger issued his ruling that they should be amended. Once Gettelfinger acknowledged that the bylaws had not been properly submitted, he should have taken no further action. It was improper for him to offer his opinion that a full-time editor was not a necessary expense of the Local. This was a matter for the IEB to decide pursuant to its authority under Article 37, §3.<sup>28</sup>

The bylaw making the editor a full-time employee has not been approved by the IEB. However, because of President Gettelfinger's improper interference, it has never been repealed either. Pursuant to Article 37, §3, the bylaw should have become effective immediately after being submitted to the IEB. Furthermore, if the bylaw had been properly submitted, the IEB would have had no grounds for repealing it, because it conformed to the International Constitution.

The membership of Local 148 had the authority to determine that a full-time editor was a necessary expense for the Local. The PRB has held repeatedly that the membership is the sovereign authority within a local union to determine what is a necessary expense within the meaning of Article 46, §1, of the Constitution. The only exception to this general rule is where the expense is contrary to an official IEB policy. The International Union's policy with respect to the compensation paid by a local union to its employees is stated in the UAW Administrative Letter dated May 30, 2002. There

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<sup>28</sup> Article 37, §3, of the International Constitution provides as follows:

"It shall be mandatory for all Local Unions to establish bylaws and submit them to the International Executive Board for ratification. Bylaws, although enacted by a subordinate body, are not effective until submitted to the International Executive Board except for those enacted pursuant to Section 5 of this Article. Bylaws, once submitted remain effective unless repealed by the International Executive Board, pursuant to Article 12, Section 5 of this Constitution."

is nothing in the requirements of that Administrative Letter which is inconsistent with the bylaw adopted by the Local 148 membership.

The IEB decision cites the PRB's ruling in *Shinn v. Region 1A*, 6 PRB 250 (1991), for the proposition that the IEB and the International President are the final arbiters of what is a necessary expense for a local union. *Shinn* involved a ruling of a Regional Director pursuant to a policy adopted by the IEB, and communicated to local unions in an Administrative Letter. This case is distinguishable because there is no formal IEB policy barring local unions from paying officers and representatives on a full-time basis.

This case is analogous to the situation in *Austin v. Local Union 594, UAW*, PRB Case No. 1270 (1999). In *Austin*, the issue was whether witnesses should be paid lost time for participating in a trial conducted in accordance with Article 31 of the Constitution. The UAW claimed that it was International policy not to pay such witnesses. The PRB held that because there had been no such formal IEB interpretation of the Constitution or communication of a policy barring the payment of lost time to witnesses participating in an Article 31 trial, it was within the authority of the local union membership to rule that the payment of such lost time was a necessary expense within the meaning of the local's bylaws.

Even if we assume that President Gettelfinger was acting on behalf of the IEB when he made his ruling that the full-time editor was not a necessary expense, the PRB has jurisdiction to review that decision because the record establishes that President Gettelfinger acted in bad faith. The International Union cites *Local Union 145, UAW v. International Executive Board*, 3 PRB 363 (1982), in support of its argument that the PRB lacks jurisdiction to review a decision of the IEB to disapprove a bylaw based on policy considerations. In that case, however, the Board specifically stated that it would consider a claim that a decision relating to a bylaw had been made in bad faith. The decision states:

“This is not to say that under no circumstances would the Public Review Board review a decision relating to the approval or lack of approval of a proposed bylaw change. If there was a claim of bad faith or a claim that a bylaw, which had been approved, contravened a provision of the Constitution, clearly it would be our responsibility to review that claim. ...”<sup>29</sup>

Appellant has argued throughout the processing of this appeal that President Gettelfinger acted in bad faith when he directed Local 148 to repeal the bylaw adding a full-time editor.

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<sup>29</sup> 3 PRB 363, at 364.

Local Union 148 has always had a full-time editor, regardless of plant population. The International Union has approved bylaws providing full-time compensation for the Local Union's editor for at least twenty years. If Gettelfinger had reviewed the evidence and considered the Local Union's reasons for adopting the bylaw, he would have known that Schultz was not authorizing enough lost time to allow Turner to perform her duties as editor. He would also have seen that Schultz was continuing to authorize lost time for his unelected supporters far in excess of what would be paid to a full-time editor.

The International Union acted without Constitutional authority and without notice to the membership of Local 148 in order to accomplish President Schultz's objectives. Furthermore, this has become a pattern in the relationship between the International Union and the current administration of Local 148 as may be seen in the case of *Edwards v. Local Union 148, UAW*, PRB Case No. 1468 (2004). In *Edwards*, the membership passed a motion to reimburse four members for expenses incurred at the 33<sup>rd</sup> Constitutional Convention. Schultz responded by writing to the International Union and asking if he had to comply with the membership's direction. President Gettelfinger's Administrative Assistant Dottie Jones told him no. It required the intervention of this Board to compel Schultz to comply with the membership's directive.

Similarly, in this case, Gettelfinger did not investigate Schultz's claim that the bylaw involved an unnecessary expense; he did not refer Schultz to Article 33; he did not conduct a hearing. Appellants have been pursuing this and other appeals for over two years now. All President Schultz has to do is write a letter to the International and he achieves his purposes without resort to any of the procedures outlined in the Constitution. Gettelfinger's consistent failure to require Schultz to adhere to Constitutional procedures amounts to bad faith on his part.

#### **B. International Union, UAW, by Eunice Stokes-Wilson:**

This appeal concerns the way bylaws are approved or repealed. It is not about the approval or abuse of lost time even though appellant has submitted evidence to support her claim that President Schultz was abusing the authorization of lost time. If there were abuses of lost time approval, these issues need to be addressed in a separate proceeding.

The procedure for seeking approval of amendments to bylaws is for local unions to submit an entire set of the amended bylaws to the IEB in care of the International President. This process is described in the UAW's *A Guide for Local Union Bylaws*.<sup>30</sup>

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<sup>30</sup> The UAW's *A Guide for Local Union Bylaws* sets forth the following five-step process for resubmitting Bylaws which have been amended to the International Union for review and approval:

"Step 1: Take each page of the Bylaws that needs to be changed, and make the sections you want to change.

Step 2: Retype the entire page, with the change typed in.

Step 3: Underline the changes on the new page in red pencil or red ink. (If you deleted a portion of the old Bylaw without substituting anything new for it, so you have nothing to underline, make a note in red that the section was changed.)

The IEB has delegated the job of reviewing bylaws to the International President pursuant to Article 7, §1(c).<sup>31</sup> At one time, it was the practice of local unions to submit only the amendments to their bylaws to the International Union for approval. At that time, the amendments were referred to International Representatives between assignments for review. This process did not provide adequate guidance to local unions and gave rise to appeals and other legal problems. In 1998, therefore, International President Stephen Yokich charged his Administrative Assistants with the responsibility for reviewing bylaws in their entirety, whatever the reason for the submission. Article 13, §2, provides the International President with the authority to delegate the task of reviewing bylaws for conformity with the Constitution and IEB policy to his Administrative Assistants.<sup>32</sup>

Local unions are free to draft their own bylaws. However, if the meaning or intent of the language adopted by the local is inconsistent with the UAW Constitution or IEB policy, the bylaw may be disapproved and the local ordered to change it. Article 12, §5, provides the authority for the IEB to repeal bylaws that do not conform to the Constitution. In addition, the Administrative Assistant may ask the Local to amend bylaws which are unclear or likely to be the subject of future appeals. The aim of this process is to avoid ambiguous or contradictory provisions in bylaws such as those that gave rise to *Campbell v. Local 51*, 6 PRB 335 (1992), which this Board characterized as “obscure, contradictory and ungrammatical.”<sup>33</sup>

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Step 4: Insert the new page, with changes, into the Bylaws and discard the old page.

Step 5: Send one total set of the revised Bylaws to the International Union. A report will be submitted to your Local Union after the Bylaws have been processed.

Step 6: Please indicate the date the Local Union membership approved the local Bylaw changes.”

<sup>31</sup> Article 7, §1(c), provides as follows:

“Between meetings of the International Executive Board the administrative authority of the International Union shall be vested in the International President. The International President shall be responsible to the International Executive Board for the administration of the Union between International Executive Board meetings, according to the Constitution, the actions of the International Convention and the decisions of the International Executive Board. On all matters of major importance s/he shall consult the other International Executive Officers. S/He shall report her/his actions to the International Executive Board for its approval or rejection.”

<sup>32</sup> Article 13, §2, of the Constitution provides:

“Between sessions of the International Executive Board, the International President shall execute the instructions of the International Executive Board and have full authority to direct the working of this organization within the provisions of this Constitution and shall report her/his acts to the regular quarterly meeting of the International Executive Board.”

<sup>33</sup> 6 PRB 335, at 343.

In the instant case, the Recording Secretary initially submitted only the amendments to Article 9, §2, of Local 148's bylaws. Administrative Assistant Dottie Jones drafted President Gettelfinger's response to Recording Secretary Harris dated May 16 directing Local 148 to resubmit the entire set of Local Union bylaws for approval. The May 16 letter also included a preliminary review of the bylaws, based in part on President Schultz's "brief in opposition" to the full-time editor and Gettelfinger's response. Jones' recommendations to the Local were approved by the President and became the bulleted paragraphs in the letter of May 15. Ordinarily, this process would have been conducted in two steps. Nevertheless, there was nothing out of the ordinary about Gettelfinger's declaration that a full-time editor would be an unnecessary expense for the Local in his response to President Schultz's letter. It is very common for the President to use his discretion to rule on the merits of policy issues as they are raised. It happens almost daily.

Gettelfinger did investigate Schultz's arguments in respect to having a full-time editor. As he states in his letter to Schultz, he contacted the Auditing Department and confirmed the Local Union's financial status. Furthermore, the President and his staff were familiar with this particular Local Union's history of financial extravagance. Election expenses were not the only problem uncovered by the auditor in 2002. In fact, the auditor specifically mentioned the full-time editor in a way that suggested the expense of such an employee would not be appropriate. She wrote:

"The Bylaws also provide for hospital and surgical premiums to be paid for the full-time editor. Is there still a full-time editor and if not are we still paying this?"<sup>34</sup>

In considering whether the expense of a full-time editor was appropriate for this Local Union at this time, the issue was not whether the editor is elected, but whether she is performing a function essential for this Local Union in its particular financial condition. It is true that this Local had a full-time editor in the past, and absent some reason to believe it could not afford the expense, the bylaw would have been approved, but in this case the Local Union raised the issue with the International President, and he made his determination on the policy issue.

When the International President makes a decision in accordance with the authority granted to him by Article 7, §1(c), and Article 13, §2, to administer the affairs of the Union between sessions of the IEB, he is performing a legislative act specifically committed to the IEB's discretion. Such decisions may only be appealed to the Convention Appeals Committee.

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<sup>34</sup> Record, p. 337.

**C. Rebuttal by Wilbert Sonnier on behalf of Vickie Turner:**

The International Union has not provided any documents to support its statement that President Yokich delegated responsibility for reviewing bylaws to his Administrative staff. Nor does Article 7, §1(c), and Article 13, §2, grant the President and his staff the Constitutional authority to act for the IEB in the manner described by Stokes-Wilson. In fact, there is no Constitutional basis for the International's policy that local unions must submit an entire set of bylaws in order to have amendments approved. Nothing in Article 37, §3, requires local unions to have previously ratified language reviewed anew every time an amendment is adopted. Therefore, the only bylaw that should have been under consideration in May 2003 was the amendment adding a full-time editor. That amendment should have become effective when it was submitted.

Article 12, §5, authorizes the IEB, as a group, to repeal bylaws that do not conform to the Constitution. That entitles the membership of Local 148 to the collective judgment of at least a quorum of that body on the question whether to repeal a bylaw. In *Oates v. International Union, UAW* 1 PRB 170, (1961), this Board rejected a claim that the President could reject an appeal as untimely on behalf of the IEB. The Board held that the appellant was entitled to the judgment of "not merely one member of the IEB, the President, but of at least a quorum of that entire body of some 24 individuals."<sup>35</sup>

The International Union concedes that the May 16 letter to Recording Secretary Harris directing her to change the amendments adopted by the membership was a departure from the normal procedures outlined in its *Guide to Local Union Bylaws*. This departure alone deprived the Local Union and appellant of due process. Nothing in the *Guide* authorizes the President's staff to send bylaws back to the local to be rewritten in accordance with the instructions of some unnamed Administrative Assistant. There is no indication that the decision made in the case of Local 148's bylaws even had the approval of President Gettelfinger.

Appellant concedes that the IEB would have the power under Article 12, §6, of the Constitution to declare guidelines for determining what is and what is not a necessary expense within the meaning of Article 46, §1, of the Constitution, and that such guidelines would limit the membership's authority to make such determinations. The IEB has never issued any such guidelines, however, despite being encouraged to do so by the PRB.<sup>36</sup> The International cannot point to any standards for making such a determination, because no standards exist. The establishment of such guidelines must occur prior to a local union's exercise of its Constitutional right to determine what is a necessary expense under Article 46, §1. The President has no authority to create policy for the International Union. That job belongs to the IEB. There is no written International policy which forbids the paying of compensation to local union officers based on the results of an audit or other extraneous considerations. Therefore,

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<sup>35</sup> 1 PRB 170, at 172. (1961)

<sup>36</sup> *Al Alli, et. al., v. International Union, UAW*, 3 PRB 222, (1984).

President Gettelfinger exceeded his authority when he directed Local 148 to repeal the bylaw based on his conclusion that it involved an unnecessary expense.

### DISCUSSION

The process for reviewing bylaw amendments described by Administrative Assistant Stokes-Wilson in her post-hearing brief strikes us as sound and appropriate under the International Constitution. Article 7, §1(c), and Article 13, §2, of the Constitution grant the International President full authority to perform all of the tasks involved in directing the operation of the International Union between sessions of the IEB. This authority clearly encompasses the undeniably tedious chore of reviewing bylaws and amendments to bylaws. Although Article 37, §3, imposes the ultimate responsibility for overseeing the bylaw approval process on the IEB, this section clearly anticipates that the IEB will rely on the reports presented to it by an administrative arm of the President's office in acting on bylaws. Large organizations must delegate routine tasks such as the approval of bylaws in the manner described by Stokes-Wilson in order to function on a day to day basis.

Appellant's claim that the Local Union membership was entitled to a review of the bylaws by at least a quorum of the IEB under the Constitution and our holding in *Oates v. International Union, UAW* is answered by the fact that both Article 7, §1(c), and Article 13, §2, specifically require the International President to report his or her acts to the IEB at its regular quarterly meeting. These separately established reporting requirements afford appellant the benefit of IEB oversight that we found indispensable in *Oates*. We strongly recommend that, if not already in place, some record of the IEB's consideration of its delegates' actions with respect to the approval of bylaws should be regularly maintained in the future.

There is no requirement that the President document his delegation of the responsibility for reviewing bylaws to his Administrative Assistants. Such delegation is inherent in the President's general powers of administration as the chief executive officer of the UAW. Similarly, the President does not need specific Constitutional authority in order to require local unions to submit an entire set of bylaws whenever amendments are submitted for approval. The President has the Constitutional authority to act for the IEB in reviewing bylaws in between sessions of the IEB, and the authority includes the power to establish details concerning the requirements for obtaining review. Finally, the authority to review bylaws necessarily includes the power to recommend suggestions and amendments where the proposed language is ambiguous or likely to result in litigation.

We do not accept appellant's very narrow construction of Article 37, §3, which would limit the IEB's or its delegate's role in the review of bylaws to the repeal of those that are inconsistent with the Constitution. In the case cited by the International Union, *Campbell v. Local 51, supra*, and in subsequent decisions, we have urged local unions

to adopt more intelligible bylaws.<sup>37</sup> The fact that bylaws must be submitted to and ratified by the IEB presupposes some role for the IEB beyond its power, stated in a separate Article of the Constitution, to repeal bylaws that conflict with the Constitution in some specific way. Certainly the IEB is not required to ratify bylaws which are likely to lead to conflicts among union members or even undue financial liability on the part of the local union, simply because it does not point to any specific provision of the Constitution which has been violated by them.

In this case, however, the process applied to Local 148's submission of its bylaws was flawed. The letter sent to Local 148 by Administrative Assistant Dottie Jones over President Gettelfinger's signature on May 16, 2003, not only requested an entire set of bylaws, but also included comments and suggestions for changes that would normally follow review of the entire set of bylaws and the preparation of a report to the IEB containing the President's recommendations with respect to the bylaws. Furthermore, Jones compounded the error by making reference to correspondence between President Gettelfinger and Local 148 President Schultz, as if Gettelfinger's letter to Schultz amounted to an official act or interpretation with respect to the bylaw submission.

President Gettelfinger's letter to Schultz on May 16, 2003, has created a great deal of confusion. Appellant has characterized the letter as an act repealing the bylaw adopted by the Local 148 membership. Rather than challenge this interpretation of the letter, the President's staff have strained to find Constitutional authorization for President Gettelfinger's action. We have concluded however, that the letter has no Constitutional significance; that it was merely a personal correspondence between Gettelfinger and Schultz. Schultz wrote to Gettelfinger that he thought the full-time editor was a bad idea, and Gettelfinger agreed with him. Gettelfinger's expression of this opinion was not, however, an official act. It did not repeal the bylaw in question. Had Gettelfinger intended to repeal the bylaw amendment with this letter, he should have stated so formally and mentioned Article 12, §5.

The International Union has conceded that Jones acted prematurely in commenting on the bylaws before they had been properly submitted and reviewed by the President's staff. The International Union's official response to the Local Union's submission of its bylaws for approval is contained in the letter dated June 26, 2003, which includes a "Report of Action" instructing the Local to delete the reference to the editor in Article 9, §2(c), (d) and (e) of the bylaws. For some reason, the International Union did not include this letter in the record forwarded to the PRB with this appeal,<sup>38</sup> nor does the report prepared by the President's staff for the IEB in response to Turner's appeal make any mention of it. This unfortunate omission increased the impression that President's Gettelfinger's letter of May 16 was the International Union's operative

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<sup>37</sup> See *Nardicchio v. International Union, UAW*, PRB Case No. 1314 (2001) and *Thielen v. UAW Local 72 Executive Board*, PRB Case No. 1481 (2004).

<sup>38</sup> It was provided to us by the appellant on December 9, 2003, after the official record had been mailed to the parties. (Record, p. 333)

response to the bylaws. There is no dispute about the authenticity of the June 26 letter, however, and at the hearing we conducted on February 5, Stokes-Wilson stated that this is the customary way that the President's office responds to bylaws on behalf of the IEB.

Recording Secretary Jacki Harris advised the membership of President Gettelfinger's position with regard to the full-time editor at the membership meeting on June 26 and appellant responded by filing this appeal. The Local Union received the International Union's official response directing the Local to eliminate the full-time editor on the following day. Therefore, the substantive issue presented by this appeal regarding the propriety of the amendment would have been the same had the May 16 correspondence never occurred.

Appellant argues that the membership determined that a full-time editor was necessary because President Schultz was not authorizing enough lost time for her to do her job. She further maintains, based on our decision in *Austin v. Local Union 594, supra*, that under Article 46, §1, the membership's conclusion that a full-time editor was a necessary expense could not be overruled by the International Union in the absence of a published policy prohibiting employment of full-time editors. We have ruled on several occasions that the membership has the right to decide whether an expense is necessary, and that the term "necessary" should be liberally construed.<sup>39</sup>

However, this case presents a different question than appeals challenging membership action approving expenses. The membership is not the final arbiter under the International Constitution of what is appropriate in its bylaws. The membership must obtain ratification of its bylaws from the IEB. As we have observed, the IEB's authority and responsibility for ratifying local union bylaws necessarily includes the authority to require changes to bylaws for clarity or consistency or based on the particular circumstances of the local union. It is not necessary, therefore, for the President acting on behalf of the IEB and reporting regularly to the IEB on his actions, as stated above, to establish that a bylaw violates the Constitution before he recommends changes to it. It is sufficient that the President thought that this particular bylaw was an inappropriate use of funds for this Local Union at this time. As we stated in *Local Union 145, UAW v. International Executive Board, supra*, we have no authority to review decisions made by the IEB with respect to bylaws based on policy considerations, absent a claim of bad faith.

Appellant's claim that bad faith influenced the International Union's action on the Local 148 bylaws has two parts. The first part of the claim is based on the Local Union's continuing fiscal extravagance. Appellant has presented lost time records which purported to show that President Schultz continued to pay his supporters excessive lost time during the period when the Local was supposed to be eliminating

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<sup>39</sup> *Mertz v. Local Union 2256*, PRB Case 1297 (2001); *Edwards v. Local Union 148*, PRB Case 1468 (2004).

unnecessary expenses. She argues that disapproving this one item of expense while ignoring the Local Administration's abuse of lost time is by itself evidence of bad faith.

We cannot agree with this position. An executive body does not act improperly by addressing one existing problem without addressing all existing problems. In a context so politically volatile as Local 148, the International Union had some obligation to investigate one faction's argument that the Local could not afford to enact a bylaw approved by a legitimate membership vote. In this case, however, the International Union's rejection of the bylaw did have rational support. The recent audit of the Local Union's books revealed serious financial problems. The auditor had urged the Local Union to get its costs under control. Furthermore, as Stokes-Wilson explained at the hearing, the President's staff was well aware of this Local Union's financial problems. The International was entitled to deal with this particular expense as part of its long-term strategy to help this Local to re-establish reasonable fiscal policies.

The second part of appellant's claim of bad faith is that Gettelfinger improperly intervened in the bylaw approval process as a personal favor to Schultz, thereby ensuring its disapproval by the IEB. As we stated, in *Edwards, supra*, it is not improper for a member to request advice from the International Union on policy issues.<sup>40</sup> Article 33 of the Constitution provides adequate procedures for raising any objections to advice obtained in this way. In this particular case, we have thoroughly reviewed Turner's arguments in response to the IEB's direction to eliminate the amendment creating a full-time editor, and we find that no violation of the Constitution has occurred.

The appeal is denied.

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<sup>40</sup> PRB Case No. 1468, (2004), at p. 13.