

DISCIPLINARY POWERS and PROCEDURES in UNION CONSTITUTIONS



Bulletin No. 1350

UNITED STATES DEPARTMENT OF LABOR

W. Willard Wirtz, Secretary

BUREAU OF LABOR STATISTICS

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Preface

This study of union disciplinary powers and procedures is the third in a series of bulletins analyzing union government and administration. Earlier studies dealt with constitutional provisions governing the election and tenure of union officers (BLS Bulletin 1239, 1958) and trusteeship arrangements (BLS Bulletin 1263, 1959). The present study reflects current interest in the extensive provisions regulating disciplinary actions which are embodied in the Labor-Management Reporting and Disclosure Act of 1959. Federal legislation dealing with union behavior creates new needs for comprehensive studies to provide background information for (1) administration, enforcement, and evaluation of the act, (2) review by unions of their procedures, and (3) public understanding.

The study is concerned with the formal rules of discipline in the constitutions of national and international unions in the United States. Within the framework of union constitutional law, it is comprehensive both in terms of the number of unions covered and in the scope of the disciplinary process studied. The study attempts to describe the whole—hence, the frequent use of statistics—and to illustrate the specific by the ample use of excerpts from identified constitutions. The extent to which actual practice represents a modification or departure from the written clause, or operates in the absence of a specific clause, was not investigated; this limitation is brought to the reader's attention at appropriate places in this report.

The Bureau of Labor Statistics initiated this study shortly after the LMRDA was enacted, at the request of, and with financial assistance from, the Bureau of Labor-Management Reports, which administers those provisions of the act for which the U. S. Department of Labor has responsibility. Although the study relates basically to union disciplinary rules existing at the time the act was put into effect, the final chapter describes changes in this area subsequently introduced into union constitutions. These changes presumably were designed to conform to the act's requirements as interpreted by the unions. The Bureau of Labor Statistics, which takes responsibility for the contents of this bulletin, is grateful for the assistance and cooperation tendered by the Bureau of Labor-Management Reports.

This bulletin was prepared in the Bureau's Division of Industrial and Labor Relations by Harry P. Cohany, Leon E. Lunden, and David A. Swankin, under the general direction of Joseph W. Bloch.

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Disciplinary Powers and Procedures in Union Constitutions

Chapter I. Introduction

Union discipline may be defined as the formal procedure established by a union to impose sanctions upon members or officers for violations of duties to the union. It is both substantive—the specification of prohibited conduct—and procedural—the formal machinery for enforcement. In its procedural aspects, union discipline encompasses four types of procedures—summary, recall, trial, and impeachment. Briefly, summary procedures allow the imposition of punishment without a hearing or trial; recall is a procedure for removing local or international officers by a vote of the membership; and trial and impeachment are procedures for the imposition of discipline after hearing before a legally constituted tribunal, with impeachment limited in scope to disciplining international officers.

A fifth type of procedure—imposition of trusteeship by a national or international union over a subordinate body—is primarily a means of disciplining a subordinate body rather than an individual. Thus it falls outside the scope of this study,¹ except where the imposition of a trusteeship also involves disciplining members or officers.

Reliance on formal discipline proceedings is by no means the only method by which unions police their internal affairs, nor does formal discipline play an especially prominent roll in the normal course of union affairs. In its internal affairs, a union functions more like a political organization than a rule-enforcement agency. It is generally more concerned with the objective of maintaining its effectiveness than with punishing violations, per se, or in achieving "justice" in a legal sense. In any union, known violations may be ignored, if trivial, or may be handled by more informal means than through the constitutional discipline process. The extent to which the discipline process would be employed may be determined by a number of factors, such as the nature of the offense, the identity of the violator, and whether there is factionalism within the union, or the existence of a rival union.

Regardless of the degree of utilization of the discipline process, its availability and its constitutional base are important. The union must be able to prevent or punish activity which might threaten its existence; to proscribe behavior which interferes with the carrying out of collective bargaining obligations; and to enforce standards of conduct, the violation of which may bring the name of the union into disrepute. To members and officers, the discipline process spelled out in the union's constitution provides an assurance or safeguard similar in kind, if not in degree, to a citizen's confidence in the machinery of justice—available but, hopefully, never requiring test.

¹ Trusteeship may be imposed for reasons other than, or in addition to, discipline. For an analysis of union trusteeship provisions, see Union Constitution Provisions: Trusteeship, (BLS Bulletin 1263, 1959).

On the other hand, abuse of disciplinary power may have severe consequences, particularly for any individual who is unjustly punished.² Furthermore, unwarranted use of discipline by those in power to suppress bona fide opposition is irreconcilable with traditional concepts of democracy, and blights the reputation of responsible trade unionism.

A balance must therefore be struck between legitimate uses and actual or potential abuses, which are not always self-evident. Congress, in passing the Labor-Management Reporting and Disclosure Act of 1959, attempted to protect members against such abuses by specifying minimum standards as to safeguards, with which a union's disciplinary process had to conform.³ Even before the passage of that law, however, the imposition of union discipline had been subject to scrutiny by State courts. Such review dates back to before the turn of the century,⁴ and has been based on the reasonableness of the grounds for discipline and the fairness of the procedure.⁵ Because of the requirements of the LMRDA, the years ahead will probably see courts as well as administrative agencies take a greater interest in union proceedings.

Yet, as courts and administrative agencies scrutinize union actions with greater care, questions relating to the adequacy of standards and procedures may ultimately be resolved, in large measure, by the standards and procedures adopted by unions generally. It is reasonable to assume that various changes in union constitutions are in the offing, as unions strive to bring their provisions into conformity with the law. Because of its broad base, the present study will serve as a benchmark against which to measure the nature and direction of these changes.

Scope and Method

This study is based on an analysis of provisions in union constitutions and thus is limited to the formal aspects of union discipline. A constitution embodies the union's basic law and establishes the legal framework for all executive and judicial actions. The disciplinary process, as to both powers and procedures, must conform to the unions' constitutional rules, if it is to be a valid exercise of union governmental powers. At the same time, written provisions,

² In addition to the embarrassment, humiliation, and social ostracization that the individual may suffer, and his disqualification from further participation in the affairs of the union, being ousted from membership might subject him to loss of job. However, Sections 8(a)(3) and 8(b)(2) of the National Labor Relations Act, as amended, have a mitigating effect in this respect on employees who work in employments covered by that law. As interpreted, these sections prohibit the discharge of an employee under a union security clause in a collective bargaining agreement merely for the loss of union membership for any reason other than failure to proffer dues.

³ See ch. VIII for an analysis of the effect of the LMRDA on union discipline provisions.

⁴ A review of an expulsion proceeding in 1889 (*People ex rel. Deverell v. Musical Mut. Protective Union*, 118 New York 101, 23 N.E. 129) is reported in an article by Clyde W. Summers, "The Law of Union Discipline: What the Courts do in Fact." *Yale Law Journal*, New Haven, Conn., December 1960, pp. 175-224.

⁵ One authority found five grounds on which the courts have set aside expulsions: (1) Procedural violation of constitution or bylaws; (2) expulsion not authorized by constitution or bylaws; (3) procedure did not afford a fair hearing, even though it conformed to the constitution and bylaws; (4) expulsion, though authorized in constitution or bylaws, was unreasonable; and (5) expulsion was in bad faith. See article, "Internal Affairs of Labor Unions Under the Labor Reform Act of 1959," by Archibald Cox, *Michigan Law Review*, April 1960, pp. 819-854.

despite their significance, tell only part of the story of union discipline. Because this study excludes any investigation of the disciplinary process in action, it does not reveal how these frequently complex clauses are interpreted in actual situations and to what extent, if any, practices depart from formal pronouncements.

There are other limitations to be taken into account. Foremost, perhaps, are the difficulties encountered in interpreting legalistic documents, particularly when they show, as union constitutions frequently may, evidence of haste or inexperience in drafting. Identical phrases may carry different meanings in different unions, as shaped by particular precedents and traditions. Also, combining similar provisions into general categories, for purposes of statistical presentation, gives equal weight here to provisions which are carryovers from the past and are presently irrelevant and those which are currently applicable. In addition, the analysis of disciplinary provisions presents formidable difficulties of its own. Rarely is the subject treated as a unit in a union constitution, with all aspects and steps clearly delineated. Instead, direct and indirect references are scattered throughout the text of the constitution, some appearing in sections dealing with the powers of officers or executive bodies, others in those describing the administration of local unions, obligations of membership, etc. Because of these complexities, inadvertent omissions and errors may have occurred in particular situations without significant effect on the overall results.

For this study, the constitutions of 158 national and international unions were analyzed (table I-1).⁶ These 158 unions accounted for 16.9 million members,

Table I-1. Constitutions of National and International Unions Studied by Union Size and Affiliation, Early 1961

Union membership	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Under 1,000 members -----	9	4.4	4	1.8	5	2.6
1,000 and under 5,000 members -----	30	81.5	14	39.0	16	42.6
5,000 and under 10,000 members -----	14	102.2	10	75.8	4	26.4
10,000 and under 25,000 members -----	21	357.7	20	345.1	1	12.6
25,000 and under 50,000 members -----	17	607.4	15	545.7	2	61.6
50,000 and under 100,000 members -----	27	1,809.1	23	1,538.8	4	270.3
100,000 and under 200,000 members -----	19	2,862.5	17	2,602.5	2	260.0
200,000 and under 500,000 members -----	14	4,515.5	14	4,515.5	-	-
500,000 members and over -----	7	6,582.9	5	4,564.7	2	2,018.2

NOTE: Because of rounding, sums of individual items may not equal totals.

⁶ The Directory of National and International Labor Unions in the United States, 1959 (BLS Bulletin 1267, 1960) listed 184 national and international unions. Of the 27 unions listed there that were not included in this study, 19 were composed mainly of government employees, and the constitutions of 8 unions were not available. One union that was included in the study, the International Guards Union of America (Ind.), was not listed in that Directory. See appendix A for a list of unions studied.

or about 93 percent of the total membership of all national and international unions with headquarters in the United States.⁷

The analysis focused on the disciplinary measures which may be invoked at the local or international level against members and local officers, and the rights of the accused during the proceedings. Subsequent chapters describe provisions regulating trials and recall proceedings against international officers, and changes in union constitutions since the passage of the LMRDA.

Constitutions were analyzed for common characteristics whose prevalence was then measured in terms of the number of constitutions and the number of union members. An approach of this sort, essentially statistical, in an area marked by great diversity has shortcomings; at times, fine shadings of meaning and unique features are lost. On balance, however, it was felt that this technique would yield more meaningful information on constitutional disciplinary proceedings as a whole than could be provided through describing, individually, the discipline process of a few selected unions.

Except for chapter VIII, the study is primarily a summary of union laws in effect prior to enactment of the Labor-Management Reporting and Disclosure Act, although a fourth of the constitutions studied were dated subsequent to the passage of the act.⁸

Summary of Findings

All of the 158 constitutions studied provided for some form of discipline. Members and local officers were each subject to discipline under provisions of all but two constitutions, while international officers were subject to discipline under all but nine (table I-2). Neither size nor affiliation was of significance with regard to the type of discipline authorized or its application. For unions of all size and affiliation, the combination of trial and summary procedures was the most common for both members and local officers. Impeachment was most frequently the sole proceeding available to discipline international officers.

Union constitutions varied greatly with regard to both the substantive grounds for which discipline could be imposed,⁹ and the procedural steps to be followed once it was initiated. One explanation for this variation was the differing degree of specificity of both substantive and procedural provisions. At one extreme were those unions which specified most if not all phases of the discipline process in minute detail. At the other extreme were unions whose constitutions were couched in broad terms, specifying few if any details.

The variation in patterns of procedure stems largely from the multiple form of union government. As a general rule, the local union was the body with plenary original jurisdiction, while the international union, in cases involving

⁷ The constitution and bylaws of subordinate bodies were excluded from the scope of this survey. A cursory check revealed that in many instances local unions either have very brief or no constitution or bylaws of their own, thus governing themselves in whole or in part by the constitution of their parent body. In some instances, however, particularly in larger local unions, detailed bylaws were noted and these often supplemented, sometimes substantially, the constitutional provisions of the international union. The extent to which disciplinary provisions in local union bylaws differ from those adopted by the international union merits a full scale study of its own.

⁸ See appendix A for dates of the constitutions that were analyzed for this study.

⁹ See in ch. III the subsection entitled "Specific Offenses" (p. 27) for a discussion of the variation in grounds for discipline.

Table I-2. Procedures for Disciplining Members, Local Officers, and International Officers,
National and International Union Constitutions, Early 1961

Type of provision ¹	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing for disciplining members ² -----	156	16,914.0	121	14,225.5	35	2,688.5
Trial -----	39	4,358.3	28	4,091.1	11	267.2
Summary -----	1	2.0	-	-	1	2.0
Trial and summary -----	116	12,553.7	93	10,134.4	23	2,419.3
No provision for disciplining members -----	2	9.1	1	3.2	1	5.9
Constitutions providing for disciplining local officers ² -----	156	16,882.0	120	14,187.7	36	2,694.3
Trial -----	32	4,046.0	23	3,814.7	9	231.3
Summary -----	2	5.2	1	3.2	1	2.0
Recall -----	-	-	-	-	-	-
Trial and summary -----	107	11,647.8	85	9,232.7	22	2,415.1
Recall and trial -----	7	317.1	4	275.4	3	41.7
Recall, trial, and summary -----	8	865.9	7	861.7	1	4.2
No provision for disciplining local officers -----	2	41.0	2	41.0	.	.
Constitutions providing for disciplining international officers ² -----	149	16,701.3	117	14,015.0	32	2,686.3
Summary -----	6	118.4	4	108.4	2	10.0
Recall -----	13	892.5	6	640.8	7	251.7
Impeachment -----	82	9,166.9	69	7,523.1	13	1,643.8
Recall and summary -----	5	227.8	4	127.8	1	100.0
Impeachment and summary -----	25	2,522.3	21	2,511.8	4	10.5
Impeachment and recall -----	11	2,196.4	9	2,136.1	2	60.3
Impeachment, recall, and summary -----	7	1,576.9	4	966.8	3	610.1
No provision for disciplining international officers -----	9	221.8	5	213.8	4	8.0

¹ For purposes of this table, summary discipline excludes all provisions authorizing such action only for non-payment of financial obligations.

² Additive.

NOTE: Because of rounding, sums of individual items may not equal totals.

members and local union officers, had a more limited original jurisdiction, restricted, in the main, to emergency situations and offenses against the international union. For any particular union, the degree of local autonomy as compared with the degree of centralized control in the international was often reflected in the division of authority between local and international trial bodies. International unions known to be highly centralized tended to retain jurisdiction over cases that arose out of situations inimical to the international union's best interests.

The multiple levels of government thus gave rise to two basic patterns of trial procedure—one for trials originating at the local level, and one for trials originating at the international level. As to the former, a typical pattern was as follows: (1) Filing of charges by a member or local officer; (2) service of

charges on, and notice of trial to, the accused; (3) trial before the local governing body; (4) decision by the membership as to guilt or innocence; (5) appeal to a district council or other intermediary body, if any; (6) appeal to the international executive board; and (7) appeal to the international convention.

As to trials originating at the international level, the following general pattern prevailed: (1) Filing of charges by an international authority; (2) service of charges on, and notice of trial to, the accused; (3) trial before, and decision by, the international executive board; and (4) appeal to the convention.

Variations from the foregoing patterns at any or all steps were common. For example, charges might be subject to preliminary review before trial; a local trial might be held before the membership in the first instance; or the appeal might be directed to the international president. In addition, the nature of the appeal process was not the same in all unions; in some, it was, in reality, a new trial, while in others, it was limited to a review of the record. Still another distinct pattern occurred in those instances where an international was authorized to take jurisdiction over a case already pending at the local level, but which for one reason or another would not or could not be carried to a conclusion there. Add to this the separate and varied procedures for trial of international officers, recall of officers, and summary discipline, and the variety of procedures becomes almost as numerous as the number of unions.

Perhaps the most important element to be weighed in evaluating any judicial system is the protection afforded the accused to insure a fair trial. Union constitutions were found to contain a host of due process safeguards. Nonetheless, only three particular safeguards—notice of charges, notice of trial, and right to counsel (professional or nonprofessional)—appeared in a majority of constitutions. As mentioned, a substantial number of union constitutions lack detail in their discipline provisions. For these unions, it may be that, in practice, any or all of these due process safeguards exist.

Still another consideration in evaluating the adequacy of the discipline process is the total time that elapses until all internal remedies have been exhausted and the case is finally resolved. Undue delay may be as detrimental to the individual concerned as any other failure of due process.¹⁰ Union constitutions were found to be almost totally lacking a specific overall time limit. Even excluding the final appeal to the convention, union constitutions were not drafted in such a way as to insure a speedy trial. Indications already existed that this is one of the areas in which union constitutions will be amended in the future.¹¹

As a general rule, unions did not provide for an "independent judiciary," either within or outside the union, to administer the discipline process. A few unions, such as the United Auto Workers and the Upholsterers, have established an outside judiciary in the form of public review boards.¹² It would seem that only a few unions are presently prepared to adopt similar steps, partly because of a general sense of confidence in existing systems, born out of tradition and pride; partly because of a reluctance to delegate jurisdiction over vital internal affairs to outsiders; and, perhaps, because of the absence of concerted demands for such changes from the rank and file.

¹⁰ Congress, in enacting the LMRDA, considered the subject of undue delay, in Section 101 (a)(4). See ch. VIII for further discussion.

¹¹ See ch. VIII, for a discussion of conforming amendments made by unions in this area since enactment of the LMRDA.

¹² See ch. VI, p. 114, for a discussion of the role of public review boards.

Thus, except as referred to, the entire judicial process normally runs its course within the union, thereby focusing attention on the agents authorized to impose or uphold punishment. At the local level, the power to discipline usually was partially retained by the membership and partially delegated to the executive. At the international level, executive agencies exercised nearly complete power to discipline, both as trial bodies for international level trials and as appellate bodies for local level trials. It is frequently charged that the centralization of final authority in the international executive agency constitutes an excessive concentration of power without adequate checks and balances. However, in the administration of union affairs, including discipline, the international authority, by virtue of its experience and objectivity, may act as a restraint against irresponsibility and abuses at local levels. On the other hand, when a disciplinary proceeding arises out of a factional dispute which threatens the incumbent administration or when other types of situations involve officers, the international authority may not be the ultimate source of fairness and impartiality.¹³

In most union constitutions, the membership, assembled in convention, held ultimate power to impose, modify, or withhold punishment, since the final appeal usually went to that body. As a practical matter, however, because of the pressures of time and other business, the convention, as a rule, can hardly be considered an adequate appeal body, and any possible injustices that have not been remedied at an earlier stage are not likely to be remedied by a meeting of hundreds or thousands of uninterested delegates.

The influence of the LMRDA, as determined through the analysis of 70 constitutions amended after the act, was reflected in a variety of amendments designed to conform to five specific requirements of the law—protection of the right to sue, written specific charges, reasonable time to prepare a defense, right to a full and fair hearing, and abolishment of summary discipline. Significant as the findings in these 70 constitutions were, it is probably still too early to measure the full effect of the LMRDA on discipline provisions, since the courts have not yet had adequate opportunity to interpret these generally broad requirements of the law.

¹³ No reliable statistics are available on abuses in union disciplinary proceedings. Individual court cases arising out of union disciplinary procedures are often cited as evidence of highhanded tactics and denial of due process rights. Typically, they involve only the most flagrant abuses of executive authority. On the other hand, other equally reprehensible violations may have taken place without coming to the attention of the courts (and the public), since members were reluctant or did not have the means to institute legal proceedings.

Chapter II. Summary Discipline of Members and Local Union Officers

Summary discipline may be defined simply as punishment or a penalty visited upon a union member or officer without proceeding through the combination of safeguards commonly called "due process." (See chapter VI.) It may be automatic and, in a sense, self-inflicted, as when a member wilfully fails to pay dues with the knowledge that such delinquency means expulsion. No connotation of severity is necessarily attached to the term, as it is used in this study; punishment may range from a nominal fine for failure to vote in a union election to expulsion and loss of job, depending on the nature of the offense. Nor does summary discipline mean that punishment is final and irrevocable; appeals and hearings procedures may be available, as indicated in this chapter, but such aspects of due process follow rather than precede the act of summary discipline.

This chapter deals with two types of offenses by members and local union officers for which summary discipline was authorized by union constitutions at the time the analysis was prepared: (1) Nonpayment of financial obligations to the union (dues, fines, and assessments) and (2) neglect of duty and responsibilities, dual unionism, strikebreaking, and other offenses not involving the financial obligations of members.

Virtually every national and international union constitution examined authorized summary discipline. Of 158 constitutions studied (table II-1), 155 contained

Table II-1. Summary Discipline for Nonpayment of Financial Obligations and for Other Reasons, National and International Union Constitutions, Early 1961

Summary discipline provisions	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing for summary discipline -----	155	16,742.1	120	14,103.8	35	2,638.3
For nonpayment of financial obligations and other reasons -----	111	11,870.5	88	9,627.9	23	2,242.7
For nonpayment of financial obligations -----	32	4,495.8	24	4,288.7	8	207.0
For other reasons -----	12	375.8	8	187.2	4	188.6
Constitutions not providing for summary discipline -----	3	181.0	2	125.0	1	56.0

NOTE: Because of rounding, sums of individual items may not equal totals.

¹⁴ As noted earlier, the constitutions analyzed in this study were primarily those in effect prior to the enactment of the Labor-Management Reporting and Disclosure Act of 1959. That act, by requiring a "full and fair hearing" before a member can be fined, suspended, expelled, or otherwise disciplined (except for nonpayment of dues), has drastically curtailed the right of unions to resort to summary procedures to impose discipline. The findings in this chapter, therefore, serve primarily as a benchmark of practices permitted prior to the passage of the LMRDA. Reference should be made to ch. VIII, where changes in summary discipline provisions since the 1959 enactment are treated.

summary authority and only 3 did not—namely, the Longshoremen's and Warehousemen's Union (Ind.), the Seafarers' International Union, and the Marine and Shipbuilding Workers of America. The bulk of the constitutions (111) permitted summary action both for nonpayment of financial obligations to the union and for other reasons. Only 32 constitutions limited grounds for summary action exclusively to nonpayment of financial obligations, while 12 allowed summary punishment only for reasons other than failure to meet financial obligations.

Thus, of the 155 constitutions permitting summary action, 143 authorized discipline for nonpayment of dues, and 123 for reasons other than nonpayment of financial obligations. Of this latter group, local union officers or members were subject to summary discipline in 116 constitutions (table II-2, II-3); the remaining 7 summary provisions applied exclusively to international officers.

Discipline for Nonpayment of Financial Obligations

When a worker joins a labor organization, he assumes an obligation to support the union by way of dues and when required, by payment of special assessments. This is a basic commitment entailed in signing the membership card; it submits the new member to the necessary discipline of an organization supported by membership contributions. Delinquency in these payments is often viewed not only as a threat to the union's only or major source of revenue, but as a weakening of the union's basic internal discipline, which, if it were to spread, could seriously impair the union's effectiveness or even its existence. Therefore, members risk punishment, due allowance being made for simple negligence, for failing to pay their dues and other financial obligations. Since the penalties are extreme, often involving loss of employment, demand for dues enforcement in some unions is frequently tempered by a ready acceptance of any reasonable excuse.

Table II-2. Summary Discipline for Reasons Other Than the Nonpayment of Financial Obligations, by Persons Affected and Affiliation, National and International Union Constitutions, Early 1961

Summary discipline provisions	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing for summary discipline ¹ -----	² 123	12,246.3	96	9,815.1	27	2,431.3
Members -----	1	40.0	1	40.0	-	-
Local union officers -----	22	1,217.1	19	1,207.7	3	9.4
International officers -----	7	183.3	4	173.3	3	10.0
Members and local union officers -----	57	6,543.7	43	4,852.4	14	1,691.4
Local union and international officers -----	12	475.3	9	465.0	3	10.3
Members, local union, and international officers -----	24	3,786.9	20	3,076.7	4	710.2
Constitutions not providing for summary discipline -----	35	4,676.8	26	4,413.7	9	263.0
Constitutions with provisions covering: ³						
Members -----	82	10,370.6	64	7,969.1	18	2,401.6
Local union officers -----	115	12,023.0	91	9,601.8	24	2,421.3
International officers -----	43	4,445.5	33	3,715.0	10	730.5

¹ Additive.

² Includes provisions of 2 constitutions authorizing summary discipline; grounds for invoking discipline not specified.

³ Nonadditive.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table II-3. Summary Discipline for Reasons Other Than the Nonpayment of Financial Obligations, by Persons Affected and Level Initiating Disciplinary Action, National and International Union Constitutions, Early 1961

Summary discipline provisions	(Members in thousands)							
	All levels		Local level		International level		Local and international levels	
	Unions	Members	Unions	Members	Unions	Members	Unions	Members
Constitutions providing for summary discipline ¹ -----	123	12,246.3	11	476.6	62	3,920.4	50	7,849.3
Members -----	1	40.0	1	40.0	-	-	-	-
Local union officers -----	22	1,217.1	4	368.2	17	651.7	1	197.2
International officers -----	7	183.3	-	-	7	183.3	-	-
Members and local union officers -----	57	6,543.7	6	68.4	23	1,338.8	28	5,136.5
Local union and international officers ---	12	475.3	-	-	9	400.1	3	75.2
Members, local union, and international officers -----	24	3,786.9	-	-	6	1,346.5	18	2,440.4
Constitutions with provisions covering: ²								
Members -----	82	10,370.6	7	108.4	29	2,685.3	46	7,576.9
Local union officers -----	115	12,023.0	10	436.6	55	3,737.1	50	7,849.3
International officers -----	43	4,445.5	-	-	22	1,929.9	³ 21	2,515.6

¹ Additive.

² Nonadditive.

³ In each constitution the provisions involve the discipline of local union officers, or members and local union officers, in addition to international officers, hence the appearance of discipline at the local level.

NOTE: Because of rounding, sums of individual items may not equal totals.

Provisions authorizing discipline for financial delinquency were widespread. Most prevalent were dues discipline clauses (table II-4), followed by assessments provisions (table II-6) and finally by fines provisions (table II-5). Only 15 constitutions made no provision for dues discipline by a formal constitutional clause.¹⁵

Many constitutions contained provisions (again, there may also be informal arrangements) exonerating certain members from payments.¹⁶ Members who are unemployed, for instance, may be exempt or may pay only sharply reduced "out-of-work dues." Similar easing or erasure of obligations may also apply to members on strike, sick members, and members involved in the organizing of their plant.

Although a number of constitutions covered dues, fines, and assessments simultaneously in one provision, more commonly only dues and assessments were treated together. Usually such provisions were part of an article on the rights and duties of membership or on the financial obligations of membership. Discipline for nonpayment of fines was often handled separately, usually in the provision for charges, trials, and penalties.

¹⁵ Under a union-shop provision in a collective bargaining agreement, failure to pay or to tender dues is cause for automatic dismissal. See Union Security and Checkoff Provisions in Major Union Contracts, 1958-59 (BLS Bulletin 1272, 1960).

¹⁶ For the variety of trade union approaches to defining what constitutes union membership—a closely allied question—see Directory of National and International Labor Unions in the United States, 1961 (BLS Bulletin 1320, 1962), pp. 44-45.

Table II-4. Discipline for Nonpayment of Dues, National and International Union Constitutions, Early 1961

Discipline provisions	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.9	36	2,694.3
Constitutions providing for discipline -----	143	16,366.3	112	13,916.7	31	2,449.7
Automatic discipline:						
After grace period; no notice -----	89	10,703.8	74	8,478.3	15	2,225.5
After grace period; notice -----	19	2,385.7	10	2,248.5	9	137.2
If not paid on due date -----	8	573.7	6	544.6	2	29.1
After grace period; notice only to those on checkoff -----	2	1,162.0	2	1,162.0	-	-
Subject to discipline:						
After grace period; no notice -----	16	744.1	11	686.2	5	57.9
After grace period; notice -----	7	717.1	7	717.1	-	-
Other -----	¹ 2	79.9	2	79.9	-	-
Constitutions not providing for discipline -----	15	556.8	10	312.2	5	244.6

¹ 1 constitution allowed local unions to discipline after a minimum 6 months' grace period under rigid notice requirements, but reserved summary expulsion to the international union following a 1-year minimum grace period; the second constitution authorized discipline but gave none of the details commonly found in other constitutions.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table II-5. Discipline for Nonpayment of Fines, National and International Union Constitutions, Early 1961

Discipline provisions	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing for discipline -----	83	12,685.4	73	11,197.9	10	1,487.6
Automatic discipline:						
After grace period; no notice -----	48	7,796.7	44	6,354.7	4	1,441.9
After grace period; notice -----	10	2,374.1	8	2,338.2	2	35.9
If not paid on due date -----	8	373.5	7	369.2	1	4.3
Subject to discipline:						
After grace period; no notice -----	10	696.0	7	690.5	3	5.5
After grace period; notice -----	5	404.1	5	404.1	-	-
Other -----	¹ 2	1,041.0	2	1,041.0	-	-
Constitutions not providing for discipline -----	75	4,237.7	49	3,030.9	26	1,206.8

¹ 1 constitution authorized discipline but provided none of the details commonly found in other constitutions; the other constitution approved local union summary action that involved cases where the facts were not in dispute.

NOTE: Because of rounding, sums of individual items may not equal totals.

Relatively speaking, provisions for discipline for nonpayment of fines were less numerous than similar clauses covering dues and assessments. This suggests that separate enforcement provisions were considered unnecessary, since implicit in the imposition of fines is the existence of measures to compel compliance, either by other summary actions or by invoking the trial procedure.

Table II-6. Discipline for Nonpayment of Assessments, National and International Union Constitutions, Early 1961

(Members in thousands)						
Discipline provisions	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing for discipline -----	113	12,733.8	89	10,458.2	24	2,275.6
Automatic discipline:						
After grace period; no notice -----	69	8,729.7	56	6,666.1	13	2,063.7
After grace period; notice -----	17	2,710.5	12	2,583.2	5	127.3
If not paid on due date -----	8	521.0	6	491.8	2	29.1
Subject to discipline:						
After grace period; no notice -----	12	657.4	8	601.9	4	55.5
After grace period; notice -----	4	28.1	4	28.1	-	-
Other -----	13	87.2	3	87.2	-	-
Constitutions not providing for discipline -----	45	4,189.3	33	3,770.6	12	418.7

¹ 3 constitutions authorized discipline but gave none of the details commonly found in other constitutions.

NOTE: Because of rounding, sums of individual items may not equal totals.

The penalty for nonpayment of dues was, by and large, explicitly and forcefully set forth. In contrast, although many clauses covering fines and assessments were equally clear concerning discipline, a significant number were vague. Eight constitutions, for instance, tied fines and/or assessments to dues by stipulating that payment of these obligations had to precede payment of dues. Thus arrearages in fines and assessments were treated as a default in dues, utilizing the penalties section of the dues clause. See, for instance, the form of statement offered by the Firemen and Oilers:

All dues are payable on the first day of each month . . . and all fines and assessments levied by the (union) must be paid before dues are collected.

Another eight constitutions defined fines and assessments to mean dues.

A number of dues clauses were so broadly stated that they covered all contingencies, including default in fines and assessments. Disciplinary action could be taken, for instance, in five trade unions, if "obligations" or "constitutional obligations" had not been met, or if the member simply was "in arrears." Three other provisions opened the door to discipline for nonpayment of fines and/or assessments by stipulating punishment for delinquencies in "dues or other payments," or in "dues or other monies owed the international union." Four constitutions stipulated punishment for those who owed "an amount equal to 3 months' dues" or "an amount in excess of 3 months' dues."

The penalty attached to nonpayment of financial obligations typically was suspension or expulsion. Where both penalties were authorized, they usually followed in sequence: Suspension for delinquency covering a specified period,

followed by expulsion for delinquency continued into a longer period. Such a procedure was available to the American Bakery and Confectionery Workers' (AFL-CIO):

Members in arrears with dues and/or assessments more than 2 months shall be suspended by the local union to which they belong as well as by the International Union. Suspension shall mean loss of all local and International Union privileges and benefits and of all rights to participate in local proceedings.

Members may be expelled for being in arrears with their regular dues or any assessment more than 6 months, provided that they have received notice of their delinquency at least 24 hours prior to the expulsion.

A few constitutions so phrased their penalty clause that the union took no direct action to suspend the delinquent member; but rather, the member's inaction in not paying his obligations was interpreted as self-suspension:

. . . Where a member allows his arrearage for dues, fines, and assessments to run over the last day of the second month without payment, he does thereby suspend himself from membership in this Association, and the fact that the member is not in possession of his monthly working card is due notice to him of his suspension from membership and no further notice will be necessary . . . (Street, Electric Railway and Motor Coach Employes).

Precautions were sometimes taken to give notice to the delinquent member that his membership status was endangered.¹⁷ The form of notice varied; some provisions required written notice, while others set a prior suspension as the first step in an inexorable disciplinary process leading to expulsion which could only be halted by erasing arrearages.

Typically, penalties for nonpayment of financial obligations were summarily applied. In several constitutions explicit exceptions from trial procedures were noted. Among these constitutions was that of the Cement, Lime and Gypsum Workers:

Every officer and member of the international union shall be entitled to a just and impartial trial for any offense of which he may be charged excepting the nonpayment of dues, fines, and assessments. . . .

Most commonly, arrearages were allowed to persist during a grace period ranging from 1 month to 1 year, after which penalties might be applied without requiring notice to the delinquent member,¹⁸ as, for example, in the Bricklayers:

Any member or apprentice in arrears for dues or assessments for 3 months shall cease to be a member of this Union without notice.

¹⁷ See tables II-4, II-5, and II-6. Such provisos appeared in 19, 10, and 17 constitutions referring, respectively, to dues, fines, and assessments.

¹⁸ See tables II-4, II-5, and II-6. Roughly 62, 58, and 61 percent of the clauses respectively covering dues, fines, and assessments included such provisos.

Less than 15 percent of the constitutions in each subject area (dues, fines, and assessments) provided for similar grace periods and also carefully prescribed that the delinquent member had to be informed that his membership was in jeopardy before automatic suspension or expulsion could be invoked. Typical is the Railroad Signalmen's constitutional provision:

Whenever any member of the Brotherhood shall be in arrears for one quarter with dues or assessments, the financial secretary shall mail said member a notice to his last known address, said notice to specify the amount in arrears. If, after such notice has been duly forwarded to the member, his dues and assessments remain unpaid for another quarter, said member shall be automatically suspended.

A more severe procedure, in eight constitutions covering dues, eight covering fines, and eight covering assessments, neither grace period nor notice was allowed. If dues, fines, or assessments were not paid by a specified cutoff date, the delinquent member ran the risk of swift and automatic punishment. Such a clause was written into the Railroad Yardmasters' (AFL-CIO) constitution:

Membership shall terminate at the end of the last day of the period for which all dues, assessments, and other payments have been paid . . .

Some unions differentiated, allowing a grace period for dues, but none for assessments.

Recognizing mitigating circumstances, one union established a fund from which loans could be made for payment of financial obligations. To protect itself from another type of delinquency, the union then made any member who defaulted in paying the loan subject to charges and trial.

Among those clauses classified as requiring payment on the due date were several which provided that a guilty member would stand suspended until the fine was paid; for instance, the Bricklayers stipulated that:

Any member or subordinate union against which any fine shall be imposed for any violation of any provision of this Constitution shall stand suspended until such fine shall have been paid.

Twenty-three dues provisions, 15 fines clauses, and 16 assessments provisos contained aspects of summary discipline, but openly recognized an element of discretion to be employed by the enforcing agency. This discretion may, in practice, be exercised in other unions. Typically these provisions stated that a delinquent member "may be" penalized or "is subject to" punishment. Otherwise the clauses contained all elements of the previously cited provisions including grace period, notice, and punishment.

Summary Discipline for Offenses Other Than Nonpayment of Financial Obligations

All but 1 of the 116 constitutions providing for summary discipline of local officers or members for reasons other than failure to meet financial obligations directed summary procedures at local union officers, while 82 of these provisions referred to rank-and-file members (tables II-2 and II-3). One constitution, that of the National Maritime Union, applied summary discipline exclusively to members, since the union had no local union officers in the commonly accepted sense of the term, but only branch officers and port agents who, although elected by the membership, were directly answerable to the international union on all matters concerning their duties.

In defining the persons subject to summary action, some provisions were less than precise. Usually, these clauses specified that "members" could be summarily disciplined, implying, but not explicitly stating, that the term was all-inclusive, i. e., meant to include officers as well as members. On the other hand, an occasional union, such as the Stage Employees, explicitly defined "members" so as to leave no doubt that officers were included.

The power to apply summary discipline for reasons other than nonpayment of dues, fines, and assessments against members and local union officers was most often vested in the international union (table II-3). For instance, of the 115 constitutions empowering summary action against local union officers, 55 sanctioned action at the international level alone, while another 50 gave authority jointly to local and international levels. Thus, 105 of 115 constitutions empowered international action against local union officers. The remaining 10 vested power solely in the local union. Similarly, in the 82 provisions covering rank and file members, 75 provisions gave the international union authority to levy summary punishment, 29 assigning sole jurisdiction and 46 sharing the power between local and international unions. Again, the remaining seven gave authority to the local level only.

Although an occasional constitution or bylaws might authorize a membership meeting to resolve itself into a committee of the whole in order to summarily punish an offender, summary discipline was primarily an executive function, with the chief executive officer (local or international) usually empowered first to determine when summary discipline should be invoked and then to administer it. In 39 provisions, the international president might delegate a deputy to act in his stead.

As a check upon the international president's power, 12 constitutions provided for a subsequent executive board review and approval of the president's action. Eleven other constitutions took the next precautionary step by vesting summary power jointly in the executive board and the executive officer, while 24 gave power solely to the international executive board. On the local level, eight constitutions gave summary power to the president, five to the executive board, and seven to the membership.

Reasons for discipline other than the nonpayment of financial obligations were numerous and diverse among the 123 constitutions (including the 7 that referred only to the discipline of international officers). Most constitutions contained more than one ground for summary discipline yielding, in total, more than 40 different grounds. Several of these, believed to be of importance in union affairs, were earmarked for special analysis and are discussed below. A smaller number are summarized in table II-7.

In the main, the analysis revealed the following pattern: (1) The primary subject of summary procedures was the local union officer, although many covered members; and (2) the international level was most often empowered to initiate summary action, although a significant number left power at the local level.

Misappropriation. Where there was reason to believe that money was being misappropriated or mishandled, a number of unions, including the Typographical Union, Automobile Workers, and Oil, Chemical and Atomic Workers, empowered the international union to move swiftly against the offending local

Table II-7. Selected Grounds for Summary Discipline by Level, Persons Affected, and Penalties, National and International Union Constitutions, Early 1961

Summary discipline provisions	Grounds for summary discipline						
	Dual unionism	Strike-breaking	Secession	Resort to courts	Union law violations ¹	Misappropriation	False charges
Level at which action is initiated -----	15	11	4	20	46	14	21
Local union -----	1	1	-	-	8	2	8
International union -----	13	8	4	13	36	12	4
Both levels -----	1	2	-	7	2	-	9
Persons subject to discipline -----	15	11	4	20	46	14	21
Members -----	-	1	-	-	3	-	2
Local union officers -----	2	2	2	-	14	10	-
Members and local union officers ----	12	7	1	19	23	2	17
International officers -----	-	1	-	-	1	-	1
Members, local union, and international officers -----	-	-	-	1	-	-	1
International and local union officers--	1	-	1	-	5	2	-
Penalty applied -----	15	11	4	20	46	14	21
Automatic fine -----	-	1	-	2	5	-	6
Automatic suspension -----	3	1	4	1	28	-	4
Automatic expulsion -----	10	7	-	16	6	13	-
Penalty at the discretion of the disciplining body -----	2	2	-	1	7	1	11

¹ Included in union law violations are refusal to follow orders or directions of union officials, as well as violations of the constitution or bylaws of the union.

officer. The Allied Industrial Workers, for instance, authorized action when all monies due to the international union were not remitted by the local union as expected:

. . . the officer or officers responsible for such failure shall be subject to summary expulsion or suspension and shall not be allowed to hold office in the organization for a period of 2 years . . .

Along similar lines, the Street, Electric Railway and Motor Coach Employes union dictated that the international secretary-treasurer first had to "ask" the local union to remove the offending financial officer and, in the event of non-compliance, then the international secretary-treasurer could act against those local officers who refused to cooperate.

Trustees or members of auditing committees who collusively falsified local union financial data in order to bury evidence of misappropriation were subject to summary punishment, under a few constitutions. To forestall financial misconduct in the absence of specific constitutional provisions, however, the "catchall" union law violations clause might be applied when necessary.

Job Discipline. The relationship of members and officers to the job was the subject of a number of summary discipline provisions. Among the activities in this area that were punishable by summary proceedings were (1) working in a nonunion shop; (2) accepting wages lower than union standards; (3) taking a job away from a fellow union member; and (4) violating union work rules. In its effort to control job jurisdiction, one union (the Hosiery Workers) made provision for summary discipline of any unemployed member who failed to register with the union his out-of-work status.

Union Loyalty. Rivalry between competitive unions and sometimes between clashing ideologies is reflected in union constitutions providing for summary discipline for dual unionism, notably those of the Hotel and Restaurant Employees; Pulp, Sulphite and Paper Mill Workers; Automobile Workers, and the Bakery Workers (Ind.). The Brewery Workers (AFL-CIO), for example, which for years had experienced bitter jurisdictional competition from the Teamsters, included the following proviso in its constitution:

Officers or representatives of local unions or . . . of the international union who accept membership or any official or representative position in a rival or competing labor organization shall thereby automatically forfeit their membership and official position in the local and/or international union as the case may be.

In one constitution, refusal to declare under oath within 30 days that he did not have dual union membership was deemed proof of such membership, and the member could then be expelled by the international executive board.

Strikebreaking, or refusing to strike when called on to do so, or otherwise aiding a struck employer, could be summarily punished in several unions, among them, Locomotive Engineers, the Printing Pressmen, and also the Glass Bottle Blowers Association whose clause is presented below:

Any member working in a plant that has been ordered on strike . . . shall automatically be expelled from membership. The name or names of those expelled shall be immediately reported to the entire membership by the international secretary.

Instigators of, and participants in, wildcat strikes were likewise subject to summarily applied discipline in a small number of constitutions, one of which placed the burden of proof of innocence upon the accused.

To prevent possible abuse of strike benefits, the Musicians, for example, ruled that those members who receive strike benefits and who then accept another engagement for which the hours were the same as those on the regular job shall by their action automatically resign from the union.

Where the threat of secession existed, the Mine, Mill and Smelter Workers; Brewery Workers; Bakery Workers; and Glass Bottle Blowers, were authorized to summarily suspend local union officers and/or members. As a general rule, the local union would be administered under a trusteeship arrangement until such time as the threat to secede was dissipated.

Resort to Courts. Virtually all labor organizations provide an appeals procedure for an aggrieved member or officer from the decisions of either a local or international trial body. If the aggrieved elects to litigate his complaint in the courts rather than to follow the prescribed appeals machinery, under the terms of a number of constitutions, he could be summarily expelled, usually by the international union. The International Brotherhood of Electrical Workers; Papermakers; Packinghouse Workers; Rubber Workers; Mine, Mill and Smelter Workers (Ind.); and the Building Service Employees' (International) Union provided the necessary authorization for such cases. Typical of such provisions was the following clause from the Printing Pressmen's constitution:

If any subordinate union or any member of a subordinate union, shall disregard any provision of the constitution or laws of the international

union pertaining to appeals . . . , and shall seek adjustment or settlement of its or his claim, differences or controversy by or through means of any suit, action or proceedings of any kind or character whatsoever in any court of law or equity . . . without having first exhausted its or his remedies provided for, in and by said constitution and laws of the international union, shall thereby be automatically expelled from the international union, without notice

The Teamsters' (Ind.) and Mailers' (Ind.) constitutions, among several others, required the aggrieved to post a bond if he resorted to the courts. The bond would cover the cost of the international union's legal expenses incurred in the case, and would be paid, if the union won, as a penalty "in the nature of a fine."

One additional constitution broadened the area in which summary discipline would be allowable from exhaustion of internal remedies directly concerned with discipline to "a civil action of any name or nature" against the union or the employers' association.

Electioneering and Internal Politics. Establishing rules for union elections is an important function of the union constitution. Generally, these rules also attempted to control the excesses or extremes to which electioneering and politics are susceptible. Ordinarily, rule violations would be subject to the trial procedure, but occasionally provisions were found which authorized the use of summary discipline. In a number of constitutions, for example, summary discipline was authorized where false or reckless charges were filed against a candidate or incumbent by opposition groups, charges which when brought to trial could not be sustained. Punishment for false charges will be discussed elsewhere in this chapter, together with a number of related matters.

Additional constitutional provisions authorized the use of summary discipline for the following: (1) Slander; (2) distribution of unauthorized or disapproved circulars (usually having political content); and (3) formation of a "political" club where union affairs could be discussed outside of the regular meeting and away from the regular meeting place. Although these rules were presumably designed to curb excesses of political rivalry in the best interests of the union, they might also lessen political opposition.

Personal Morals. Drunkenness, profanity, or other disturbances of otherwise orderly meetings, in some unions was sufficient cause for summary action. Typically, a first offense might draw a reprimand from the chair, but a second and third offense, as indicated in the Carpenters' constitution, opened the door to summary action:

Any member entering the meeting in a state of intoxication, or who disturbs the harmony thereof, or uses profane or unbecoming language during the meeting shall be admonished by the chair, and, if the member again offends, shall be fined 50 cents; for the second offense, \$1 and excluded from the room; for the third offense the member shall be suspended for 3 months The president shall strictly enforce this section.

One other constitution declared that membership would cease "forthwith and immediately" for the sale of intoxicating liquors.

Loss of membership similarly was the summary penalty levied under a few provisions, such as the Order of Railway Conductors and Brakemen (Ind.), for obtaining that membership under false pretenses. Still other unions, like the Bookbinders, in addition to banning from office any candidate who had been found guilty of committing a felony at any time during the previous 10 years, authorized the summary removal of any officer guilty of committing a felony:

. . . should an incumbent officer be convicted or found guilty of committing a felony, he or she shall cease to hold office immediately, and shall be barred from holding any office in any subordinate local union or the International (union).

Administrative Discipline. The category where authorized summary procedure was most often invoked lay in the general area of administrative discipline, largely resulting from the requirements or duties of office, and the necessity for the smooth operation and intermeshing of international and local union administrative machineries. Although some of the summary discipline described applies to members, most of it applies to the activities of local union officers.

The most frequent internal rule (appearing, among others, in constitutions of the Carpenters; Chemical Workers; Meat Cutters; Retail Clerks; Sheet Metal Workers; Hod Carriers; Mine, Mill and Smelter Workers; and Locomotive Engineers) empowered the local union or the local union membership meeting to declare vacant any office where the incumbent had been absent for two or three consecutive meetings. A new election might take place immediately or might occur at a subsequent meeting. As a safeguard, most clauses limited the summary action to those situations where the officer had no reasonable excuse for his absences. Typical is the provision in the Painters' constitution:

If any officer fails to discharge the duties of his office for three consecutive meetings without a reasonable excuse, the office shall be declared vacant, and an election to fill the same shall take place at the next regular meeting.

In a very few cases, members failing to attend meetings were subject to summary fines.

For failing to file reports, the United Mine Workers (Ind.); Bricklayers; Operating Engineers; and several other unions provided for the levying of automatic fines, usually nominal sums, against local union officers. Typically, the delinquent reports referred to were financial reports, deemed by the international union to be so important to the continuous protection of funds that no delays could be tolerated. Action might also be taken if there was any undue delay in answering communications from the international union, or if the responsible local union officer had failed to file reports necessary for the union's compliance with pertinent Federal, State, or local laws.

The following provision from the Glass Bottle Blowers' constitution illustrates a common form of such clauses:

If he fails or neglects to prepare and forward the semiannual report of the local union or such other reports as required, to the international secretary-treasurer within 10 days after the last day of each half year, he shall be fined the amount of \$5. Failure to pay such fine will subject him to summary removal from office.

Under other clauses, members might be summarily fined for failure to cast a vote in an election; an elected officer might have his election set aside if he failed to appear for installation; or an officer or member might be summarily punished for making appeals to other locals without international authorization, or for failing to enforce a union law.

Judicial Discipline. In an attempt to safeguard internal judicial processes and to assure a fair trial, a number of rules have been promulgated, the violation of which might result in summary punishment. The most prevalent of these rules were the previously noted provisions designed to protect the accused against false charges by holding out to a false accuser the risk of summary punishment. Among the unions invoking such procedures were the Teamsters (Ind.); Rubber Workers; Oil, Chemical and Atomic Workers; Building Service Employees; and Painters. The Typographical Union, for example, acted in the following manner:

Any member bringing charges against another which he fails to sustain by proper evidence may, by a two-thirds vote of the union, and without referring the matter to any trial committee, be censured or fined an amount equal to the expense of the trial, or both censured and fined.

In a related authority, found in a few constitutions, summary punishment might also be invoked against any accuser who refused to state his charges in writing. Similarly, a small number of provisions invoked summary punishment against a witness who ignored a summons to testify or who failed to give true testimony. A defendant who refused to stand trial might be suspended or expelled summarily, and members of a trial committee who absented themselves from the trial without good reason, or who failed or refused to vote, were also subject to summary punishment.

Union Law Violations. A rather large group of constitutions (46) contained discipline language that appeared to encompass virtually the whole range of union activity and behavior without being specific about any single violation. Although in invoking these "catchall" clauses, the enforcing agent would have to be specific concerning the behavior deemed to be in violation, the behavior or act that would be violative would not be known to members or officers except through experience and custom. Such clauses were directed to local union officers more often than to rank-and-file members. Employing such provisions were some of the larger trade unions including the Carpenters; Brotherhood of Electrical Workers; Hod Carriers; Maintenance of Way Employees; Retail Clerks; and United Mine Workers (Ind.). The following examples are drawn from the Allied Industrial Workers, and the Street, Electric Railway and Motor Coach Employees' constitutions:

The International President shall, after investigation in person or through a representative, have the power to summarily expel or suspend members or officers of subordinate organizations for violation of the International Constitution, Local Union bylaws, or Local Union contracts, or for such other causes which are deemed sufficient by him to require prompt and immediate action on his part. Any such officer or member suspended by the International President shall have the right to appeal.

* * *

The general executive board shall have authority to deal with officers of a Local Division for refusal to carry out laws and policies of the Association . . . The local division or local officer thus suspended shall have the right to appeal to the following Convention . . .

A small number of related clauses empowered summary suspension of officers and members "for cause" or removal of an officer for "neglect of duty."

Other Summary Discipline Provisions. Over a fourth of the constitutions providing for summary discipline related the summary action to the establishment of a trusteeship. Ordinarily a trusteeship is established by the chief executive officer for any one of a variety of reasons, and the local is administered by his appointed trustee. The trustee usually is given the power to continue the officers in office, or to suspend them. The subsequent hearing or trial is concerned with the propriety of the trusteeship and its continuance, not with the suspended status of the officers. Since trusteeships and the grounds for establishing trusteeships have been discussed fully in other government publications,¹⁹ these matters are only noted here in relation to summary action.

Although many unions constitutionally barred membership to Communists or to members of subversive organizations, a few provided, like the Brotherhood of Maintenance of Way Employes, that if Communists were discovered in the ranks, they would be "forthwith and promptly expelled." One labor organization made a refusal to comply with the non-Communist affidavit requirement of the Labor-Management Relations Act of 1947 (since eliminated from this act) sufficient grounds for summary action. Two additional provisions empowered executives to move summarily against members who had not sought citizenship within a reasonable time after having been conditionally admitted to membership.

Appeals From Summary Action

Summary discipline implies that there is no recourse to a hearing before punishment is visited upon the accused member or officer—it is an emergency measure. The very nature of summary discipline, when taken for reasons other than the nonpayment of financial obligations, particularly where suspension and expulsion are available as penalties, would seem to require provisions for a later appeal or review procedure, especially since summary actions may be taken in an emotionally charged atmosphere, judgments may be open to error, and some of the grounds for summary action lend themselves to political use.

Under an appeals system, the aggrieved member is given the right to initiate action in his own defense against the preceding summary discipline of an executive or executive body. Automatic review implies that any summary action is subject to review concerning its propriety automatically, without any action necessary by the aggrieved member or officer. Conceivably, under an appeals procedure a member may forego reexamination of the action against him by not initiating the appeal, while under automatic review all actions come under scrutiny.

In the absence of internal appeals machinery, the only recourse of the aggrieved member or local union officer is in the courts. Since litigation is costly and slow, resort to courts remains a doubtful remedy, and moreover, it may be antithetical to the principles of the aggrieved member.

¹⁹ Union Constitution Provisions: Trusteeship (BLS Bulletin 1263 1959) and Union Trusteeships, a report of the Secretary of Labor to the Congress upon the operation of Title III of the Labor-Management Reporting and Disclosure Act together with a study by the Bureau of Labor-Management Reports (September 1962).

Less than half of the 123 constitutions that provided for summary discipline for reasons other than nonpayment of financial obligations also provided for appeals or review safeguards (table II-8). In contrast, virtually every one of these same 123 constitutions included a system of appeals from the decisions of trial bodies along with a variety of additional safeguards contained in the trial procedure itself.

Table II-8. Specified Provisions for Appealing Summary Actions, National and International Union Constitutions, Early 1961¹

Appeal provisions	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
Constitutions providing for summary discipline -----	123	12, 246.3	96	9, 815.1	27	2, 431.3
Constitutions providing for appeals -----	56	7, 596.8	48	7, 388.9	8	207.9
Appeal -----	50	7, 062.9	43	6, 855.4	7	207.5
Automatic review -----	4	319.3	3	318.9	1	.4
Appeal and automatic review -----	1	124.6	1	124.6	-	-
Only certain actions reviewed -----	1	90.0	1	90.0	-	-
Constitutions not providing for appeals -----	² 67	4, 649.6	48	2, 426.2	19	2, 223.3

¹ Appeal provisions specifically related to summary action; does not include general appeal clauses dealing with trial decisions.

² All but 1 constitution provided for appeal from trial decisions.

NOTE: Because of rounding, sums of individual items may not equal totals.

An appeals procedure initiated by the member or local union officer was the prevalent safeguard in those constitutions providing appeals or review systems from summary discipline. In some cases the appeal had to be in writing, while in others the form of appeal remained unspecified. The time in which appeals could be initiated ranged from 10 to 30 days but, again, a number of the constitutions left time limits unspecified except to state that appeal could be made to the "next" general executive board meeting or convention. Under some procedures limits were also set on the time for hearing appeals once the procedure was invoked. All steps of the appeals procedure involving trial decision might be followed, or some might be bypassed in the interest of a speedy final determination.

Illustrative of some of these characteristics is the following appeals provisions of the Building Service Employees:

Any action under this section shall become effective immediately, but any . . . officers or members so suspended shall have the right to appeal from said decision in writing within 10 days thereafter to the general executive board. The general executive board shall grant the accused a full hearing within 30 days after said suspension if an appeal is so filed.

Interestingly, the National Maritime Union excepts from its appeals provisions those officers found "guilty by any court of law . . . of committing offenses involving possession, sale, or use of narcotics or found guilty of robbery, murder, or any other crimes considered felonies."

In a few additional situations, summary discipline for reasons other than nonpayment of financial obligations was subject to automatic review or to both automatic review and appeals procedure, as illustrated by the following provision from the constitution of the Street, Electric Railway and Motor Coach Employees:

The general executive board's act in suspending . . . a local division officer . . . shall be fully reported to the convention immediately succeeding such action. The . . . local officer thus suspended shall have the right to appeal to the following convention and have the case fully considered and acted upon by the convention, the action of the convention to be final in the disposition of such cases . . .

It should be recognized that this study deals with formal constitution provisions. Means of appeal might exist among those unions having neither appeal nor review of summary punishment. Moreover, in a number of situations, summary discipline may not be of major significance; that is, the levying of small fines for administrative oversights by local union officers may be involved, rather than suspension or expulsion in which rights of members and internal union policies are at issue.

Chapter III. Grounds for Discipline Requiring Trial of Local Union Officers and Members

This chapter deals with the grounds upon which trials could be initiated at the local or international levels. After a consideration of general grounds for disciplinary action, the various types of specific grounds are set forth and analyzed. The closing section differentiates between those grounds which may result in trials at the local level and at the international union level.

The grounds for which discipline could be imposed at either the local or international union level were specified in all but four of the constitutions containing trial provisions (table III-1). These provisions defined and forbade conduct that interfered with the organization's legal and contractual obligations or that was otherwise inimical to the best interests of the union. Typically, union constitutions prohibited both members and local officers from engaging in the proscribed conduct. Several constitutions, however, provided additional grounds for local officers; and a few specified wholly different and distinct grounds. These offenses were usually related to official duties, such as failing to file required reports, or not following directives of international officers.

Table III-1. Provisions Referring to Grounds for Disciplining Members and Local Officers at Local or International Union Levels, by Persons Affected and Affiliation, National and International Union Constitutions, Early 1961

Type of provisions	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for trial at the local or international level ----	156	16,917.9	121	14,225.6	35	2,692.3
Constitutions referring to grounds -----	152	16,746.1	117	14,053.8	35	2,692.3
Some grounds for members and and local officers -----	99	9,673.7	78	8,650.8	21	1,022.9
Some grounds applicable to both members and officers; others applicable only to one or the other -----	40	6,594.9	30	4,948.2	10	1,646.6
Different grounds applicable to members and local officers -----	9	426.6	6	411.8	3	14.8
Other -----	¹ 4	50.9	3	42.9	1	8.0
Constitutions not referring to grounds ---	4	171.8	4	171.8	-	-

¹ Under 2 constitutions, grounds for disciplining local officers were specified, but no reference was made to grounds applicable to members; and under 2 constitutions, grounds applied only to members, there being no local officers in the usual sense.

NOTE: Because of rounding, sums of individual items may not equal totals.

Although each constitution typically identified a number of specific offenses, the variation among constitutions was great, because of differences in emphasis. These prohibitions, normally scattered throughout the constitution, ranged from simple instructions to elaborate clauses that defined each element of the proscribed conduct.

Of the four constitutions that contained no specific reference to punishable conduct, two merely authorized local unions to establish trial procedures; one specified the duties of membership but did not relate these obligations to disciplinary procedures; and one constitution's sole reference to punishable conduct was in a clause providing for trial "if sufficient grounds are found."

General Grounds

Every constitution that contained a reference to grounds for discipline provided at least one general or "catchall" prohibition that did not explicitly define the behavior outlawed (table III-2). In 13 unions, these general clauses were the only type found, while in 139 constitutions they were added to other prohibitions, more specific in nature.

Table III-2. Types of Grounds for Trial of Members and Local Officers at the Local or International Level, National and International Union Constitutions, Early 1961

Type of grounds	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for trial at the local or international level -----	156	16,917.9	121	14,225.6	35	2,692.3
Constitutions referring to grounds -----	152	16,746.1	117	14,053.8	35	2,692.3
Specific and general grounds -----	139	16,262.8	107	13,581.5	32	2,681.3
General grounds -----	13	483.3	10	472.3	3	11.0
Constitutions not referring to grounds ---	4	171.8	4	171.8	-	-

NOTE: Because of rounding, sums of individual items may not equal totals.

Certain general prohibitions, in practice, could be as definite and precise as a specific prohibition. For instance, the offense most prevalently cited or proscribed, "violate the constitution," could be defined by reference to specific constitutional provisions. Other general phrases such as "conduct unbecoming a member" or "bringing the union into disrepute" were perhaps far less determinate. Although they might proscribe conduct universally denounced, just as a municipal ordinance forbids "disorderly conduct," members would not know, except perhaps through experience, precisely what conduct evokes a penalty. Other equally broad but less prevalent catchall clauses prohibited "malfeasance, misfeasance or non-feasance," violating the "duties, obligations, and fealty of a member," and "any dishonorable act."

Even in these constitutions with indefinite clauses, however, there were often other provisions of such a nature as to foster specificity. First, a few constitutions defined some of the elements of the indefinite prohibition, as, for example, that of the Cement Workers:

Any . . . member . . . circulating . . . any false or malicious statement . . . or who advocates . . . any dual labor movement or who violates the provisions of the Constitution . . . shall . . . be deemed guilty of conduct unbecoming a member . . .

Second, many constitutions guarded against arbitrary use of general clauses by requiring all charges to state the particulars of the conduct alleged to constitute the general offense. Approximately 7 of every 10 members subject to trial at the local level under a general clause were protected by this type of requirement;²⁰ and nearly half of the members constitutionally subject to trial at the international level enjoyed the same protection. These specificity requirements usually appeared in connection with constitutional provisions for written specific charges (discussed more fully in chapter IV). The following clause illustrates this relationship:

A charge . . . that a member or members have violated this constitution or engaged in conduct unbecoming a member of the Union must be specifically set forth in writing and signed by the member or members making the charges. The charges must state the exact nature of the alleged offense or offenses and, if possible, the period of time during which the offense or offenses allegedly took place. (Automobile Workers)

As described later in the study, charges based on general clauses have to withstand the scrutiny of a trial body and, in nearly all unions, one or more appellate reviews. Thus, although these general clauses may seem vague, the disciplinary procedure, in its entirety, may serve to inhibit the imposition of penalties for indefinite reasons.

Specific Offenses. The union constitutions studied contained a variety of specific punishable offenses. Although there was some similarity in the scope of offenses listed, no single specific offense appeared in a majority of constitutions (table III-3). A number of factors contributed to this variation among constitutions. Each union's unique experiences, internal conflicts, particular job-related problems, and, to a lesser extent, emphasis on particular trade union objectives, were reflected in disciplinary provisions. For example, craft unions emphasized the prohibition of conduct giving rise to job-related problems, as illustrated in the following phrases:

. . . engage in speed, record or other contests . . . (International Typographical Union)

. . . the selling of a pass . . . (Brotherhood of Locomotive Firemen and Enginemen)

. . . use of chromic acid . . . (Amalgamated Lithographers of America, Ind.)

Bans on signing yellow-dog contracts (outlawed by the Norris-LaGuardia Act of 1932) and on being a company spy, remnants of an earlier turbulent era in American labor history, were found in a number of older unions. Perhaps in tribute to its former General Secretary²¹ who is generally credited with the idea for observing Labor Day, the Carpenters' constitution authorized fines for members who refuse to parade on that holiday.

²⁰ This type of protection has since become compulsory under Section 101(a) (5) of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 523) which provides:

No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

²¹ Peter J. McGuire, first general secretary of the union, elected to office in 1881. The first Labor Day celebration was held in New York City on September 5, 1882.

Table III-3. Prevalence of Selected Offenses Punishable Under National and International Union Constitutions, Early 1961

Offenses	Number of unions
All constitutions providing grounds ¹ -----	152
General grounds -----	152
Violation of the constitution -----	114
Conduct unbecoming a member -----	42
Bring the union into disrepute -----	15
Financial -----	85
Misappropriation -----	56
Fraud -----	28
Job discipline -----	99
Violation of collective agreement -----	54
Violation of work rules -----	47
Injure fellow workers -----	31
Union loyalty -----	124
Dual unionism -----	41
Secession -----	46
Strikebreaking -----	37
Disclosure of union secrets -----	26
Subversive activity or support -----	43
Failure to exhaust internal remedies -----	64
Electioneering -----	66
Distribution of unauthorized or slanderous material -----	60
Falsifying ballots -----	9
Moral -----	37
Drunkenness -----	16
Felony -----	4

¹ Nonadditive.

Differing emphasis on particular trade union objectives is illustrated by the provisions dealing with violation of union label policy in the following two constitutions:

Any member buying . . . without the label, when the label can be had, shall be fined two dollars. (Metal Polishers, Buffers, Platers and Helpers International Union)

Members who permit labels to drop on the floor and remain there shall be fined or expelled . . . (United Garment Workers of America)

The Boilermakers' constitution dealt in drastic terms with a trade practice to which some unions take no exception:

The International Brotherhood stands for the abolishment of piecework, premium, merit, task, or contract systems. Members who may be found guilty of agitating for or encouraging any of these systems shall be liable to expulsion; and any such practices shall be entirely abolished as soon as possible. Each case may be investigated by the executive council and a date set for the abolishment of such practice when it shall be deemed advisable.

Most trial provisions contained at least one prohibition for each of the major categories studied. Traditional union interests, such as financial integrity, job behavior appropriate to a union member, union loyalty, and antielectioneering

activities, were typically guarded by disciplinary sanctions. Thirty-seven constitutions, covering over six million members, also invoked sanctions against immoral behavior (defined in social as well as plant safety terms).

Nearly all prohibitions, as written, applied with equal force to members and local officers (table III-4). Within each category of specific offenses, however, a few constitutions limited the applicability of the prohibition to members or to local officers. For example, of 124 unions specifying union-loyalty offenses, 122 were applicable to members and local officers, 1 to members only, and 1 to local officers only.

Table III-4. Persons Subject to Trial at the Local or International Level on Selected Grounds, National and International Union Constitutions, Early 1961

Persons subject to discipline	(Members in thousands)									
	Type of grounds									
	Financial		Job discipline		Union loyalty		Electioneering		Moral	
	Unions	Members	Unions	Members	Unions	Members	Unions	Members	Unions	Members
All constitutions providing specific grounds -----	139	16,262.8	139	16,262.8	139	16,262.8	139	16,262.8	139	16,262.8
Constitutions referring to specified offense -----	85	12,781.8	99	13,892.9	124	15,825.8	66	9,565.4	37	6,109.6
Members and local officers -----	77	11,919.5	97	13,695.3	122	15,628.1	63	9,203.4	36	6,069.6
Members -----	1	1.0	1	40.0	1	40.0	3	362.1	1	40.0
Local officers -----	7	861.2	1	157.7	1	157.7	-	-	-	-
Constitutions not referring to specified grounds -----	54	3,481.0	40	2,369.8	15	437.0	73	6,697.4	102	10,153.2

NOTE: Because of rounding, sums of individual items may not equal totals.

Financial. The custody and control of union funds and property were regulated in 85 union constitutions. The grounds for invoking disciplinary procedures for financial misconduct by a local officer or member were usually stated as "misappropriation" or "defrauding." Misappropriation concerned theft or embezzlement, while defrauding, although sometimes used synonymously, ordinarily meant fraudulent or false applications for strike, sick, or death benefits. One constitution applied the term "defrauding" to misdealing in ball and picnic tickets, and another specified passing bad checks as a punishable fraud. Typically, however, this offense was referred to in the following context:

The basis for charges . . . shall consist of . . . defrauding the . . . union . . . of money or property; or drawing and accepting any benefits of the International Union to which he or she is not entitled.
(American Bakery and Confectionery Workers' International Union)

A few constitutions outlawed "racketeering," and others prohibited bribery. For example, the constitution of the Bricklayers provided:

Any . . . officer found guilty of accepting any bribe or present from any corporation, contractor, or association shall be . . . fined . . . suspended . . . or expelled.

Job Discipline. Ninety-nine of the trial provisions studied contained at least one specific prohibition on certain job-related behavior, and a third of these contained more than one such proscription. Fifty-four constitutions provided sanctions to enforce union obligations under collective bargaining agreements. These sanctions were commonly expressed as general prohibitions on "violating the established union collective bargaining agreement," "willful failure to observe the provisions of an agreement," or "acting in any wise to circumvent, defeat, or interfere" with an agreement. A few of these prohibitions were not as broad in scope, and dealt only with particular phases of the collective agreement:

Any officer or member of a local union interfering in any manner detrimental to the successful conclusion of a grievance shall be subject to expulsion . . .

Also included among the 54 constitutions were provisions outlawing unauthorized or wildcat strikes. Under these constitutions, charges might be filed against members "staying out against the International's orders," engaging in a strike "which violates the working agreement," conduct that tended to "agitate illegal strikes," or simply taking part in "wildcats."

Forty-seven of the 99 constitutions authorized discipline for violating work rules. A marked diversity distinguished these prohibitions from those regulating other aspects of union activity, largely because of each union's adaptation to its industrial environment. Several unions, principally in the construction trades, published extensive regulations in separate rule books or authorized local unions to establish these rules. The general offense "violate work rules" referred to these rule books or to work rules established through collective bargaining, as for example, in the Maritime Union, where "violation of National Shipping Rules" was a punishable offense. A few unions incorporated detailed working rules into the international constitution. For example, in the Musicians' constitution working rules were specified for nearly all forms of entertainment in which musicians are employed, and in the Printing Pressmen's constitution they regulated the hiring, hours of work, feeding copy onto cylinder presses, and crew sizes for certain type presses. In maritime unions, these proscriptions included activities that would be dealt with by the employer in most shoreside industries. For instance, the National Maritime Union's constitution authorized discipline for "accepting relief job," "not completing assignment," or "leaving ship shorthanded." Several constitutions regulated, or attempted to regulate, the technology of the craft through disciplinary provisions; for example, the Lithographers as mentioned earlier, forbade the use of chromic acid, the Lathers prohibited "the use of stilts or other unsafe equipment," and the Painters limited the use of spray guns.

Thirty-one unions, particularly craft unions, forbade behavior that tended to harm fellow workers on the job. Often the proscription was in such terms as "working for less than the established scale of wages." In the printing trades, this offense, known as "ratting" was described as follows:

A member of a subordinate union engaging to take a situation in the jurisdiction of another subordinate union at a lower rate of wages than the scale of prices of the latter subordinate union calls for, is guilty of 'ratting,' even though the situation may not be obtained. (International Mailers Union, Ind.)

Also included among the job-related grounds were provisions in nine constitutions which forbade working with nonunion workers.

Union Loyalty. Union constitutions were most explicit in proscribing conduct that threatened the continued existence of the union. In 124 unions, members were subject to disciplinary action for behavior that injured the internal security of the union. Occasionally, as noted in chapter II, summary suspension or expulsion was authorized to punish members who engaged in such activities.

Two of the most commonly referred to offenses in this category were dual unionism and secession. Dual unionism usually referred to the act of joining or favoring a union which claimed rival jurisdiction, while secession usually referred to the act of withdrawing from the union. In many constitutions, however, the distinction between these terms was not entirely clear, and in a few they seemed to be used as synonyms.

Several constitutions extensively defined the behavior forbidden by these prohibitions, as exemplified in the following provision:

No person shall be eligible to . . . remain a member in this Brotherhood who holds membership in or affiliation with any group, club, society, or other organization which, in the opinion of the General Executive Board, exercises or claims to exercise duties and functions similar to those exercised by this Brotherhood or its locals, or which claims jurisdiction in whole or in part over matters which are within the jurisdiction of this Brotherhood. (Brotherhood of Painters, Decorators and Paperhangers of America)

The constitution of the United Automobile Workers forbade activities directed at supplanting the union as the bargaining agent:

Whenever it is charged that a member is affirmatively engaged in the promotion, implementation, furtherance, or support of any other union or collective bargaining group with the purpose or intent of supplanting this International Union, or any subordinate body thereof, as the recognized collective bargaining agent, such charge will be filed with the International Executive Board . . .

Most constitutions, however, did not define the activities forbidden as elaborately as in the above illustrations. A number of constitutions forbade "dual unionism" or "secession or fostering secession" without elaboration of these phrases which were included in a listing of numerous punishable offenses. Several constitutions contained broad clauses forbidding withdrawals from the union or joining any organization that was hostile to or in conflict with the union. For example, the International Brotherhood of Electrical Workers' constitution prohibited:

. . . advocating or attempting to bring about a withdrawal from the I. B. E. W. of any (local union) or of any member or group of members.

The constitution of the Metal Polishers provided:

No member shall advocate secession, disaffiliation, nor shall any member take any action inimical to the interests of the organization.

Strikebreaking. When a union strikes to win its bargaining demands, effective internal solidarity is particularly important. Consequently, many constitutions authorized disciplinary sanctions against disloyalty, commonly specifying "strikebreaking" as a ground for discipline. The constitution of the Bricklayers characterized strikebreakers as "union wreckers" in the following clause:

Union Wreckers—A union wrecker is one who deliberately and with evil intent goes into the jurisdiction of a union that is on an authorized legal strike, knowingly accepts employment and persists in retaining it when he knows that he is doing so contrary to the law . . . or who resigns from or leaves a union . . . in order to defeat a legal strike . . .

These prohibitions were unusually explicit in describing the specific behavior that formed the basis for charges, as in the following provision:

Any member . . . who continues at work when a strike on the system where he is employed has been regularly declared by the Brotherhood, or any member who takes the place of or does any of the work formerly or ordinarily done by anyone engaged in a strike . . . or who fills any position made vacant . . . by . . . a strike . . . if he is found guilty . . . will be ordered expelled . . . and shall forever be ineligible for readmittance . . . (Brotherhood of Locomotive Engineers, Ind.)

Disclosure of Secrets. Disclosing union secrets, considered another threat to internal security, was the subject of disciplinary action in 26 of the 156 trial provisions studied. Most clauses prohibited unauthorized disclosure of any confidential matter of the union, such as "secrets," "private transactions," or "business." A few clauses, relating specifically to membership lists, forbade the "furnishing of a complete or partial list of the membership of the International Union or of any local union to any person or persons" other than those whose official position entitles them to have such a list.

Failure to Exhaust Internal Remedies.²² Premature resort to civil courts, considered by some to be a flagrant display of disloyalty, was specifically prohibited in 64 constitutions. The grave consequences of this conduct were also illustrated by the number of times it appeared as a ground for summary discipline, as noted in chapter II. Typically, a member was required to prosecute and exhaust all appeals within the union before resorting to civil courts, as specified in the following provision:

Acceptance of membership . . . constitutes an agreement whereby every member . . . shall exhaust all remedies and appeals within the (union) . . . and that until such remedies and appeals have been exhausted, such aggrieved member . . . shall not resort to any court or other tribunal outside of the UIU. (Upholsterers' International Union of North America)

Subversive Activity. Subversive activity, or support of groups declared to be subversive, was specified as a reason for disciplinary action in 43 constitutions. These clauses nearly always explicitly identified the Communist Party, as in the following clause:

Any member who advocates the overthrow of the government . . . or who belongs to the Communist Party or any other subversive group, or who subscribes to any of their doctrines, shall be punished by expulsion. (International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers)

²² See ch. VIII for a discussion of the effect of the Labor-Management Reporting and Disclosure Act on such provisions.

A few clauses also included support of Nazi or Fascist groups within this prohibition. One of the most extensive provisions was that in the United Mine Workers' (Ind.) constitution:

Any member accepting membership in the Industrial Workers of the World, the Working Class Union, the One Big Union, or any other dual organization, or membership in the National Chamber of Commerce, the National Association of Manufacturers, or the Ku Klux Klan, or the Communist Party, or Fascist, Nazi, or Bund organizations, shall be expelled . . .

Political Activity Outside the Union. Only a few of the 156 constitutions authorized punishment for general political activities. Typically, these clauses forbade interference with the legislative activities of the union. For instance, one constitution forbade "opposing legislation designed to benefit the trade," and another prohibited "opposing legislation endorsed by the Order." One clause limited the right to speak for the union or as a union member, but did not prohibit action as a private citizen:

When such (legislative) policy has been declared, no member of the Brotherhood shall appear before any legislative committee, legislature, State, provincial, or Federal executive, or take any other action . . . in opposition to such a program in any capacity except that of a private citizen; nor shall he, in the name of the Brotherhood, engage in any political campaign against a candidate for public office after such candidate has been endorsed by the Brotherhood . . . (Brotherhood of Maintenance of Way Employes)

Electioneering—Preelection Union Campaign Activities. The offense of publishing slanderous or unauthorized material was punishable in 60 constitutions. A number of unions banned all slanderous publications in clauses forbidding "slander in any way," or "slandering or otherwise wronging a member," but only a few constitutions explicitly defined the meaning of these terms. One of these constitutions stipulated:

No untrue statements may be made in political literature, nor shall any conclusions be published which impugn the motives of candidates. The facts from which conclusions are drawn shall be clearly stated so readers can compare and also draw their own conclusions . . . All members should realize that scurrilous references, slander or libel react on the reputation of the union. To try to elect the best officers should be the aim of each member of the union. (International Typographical Union)

Advance approval of circulars, which would include campaign material, was required by several constitutions. Any member publishing statements that reflected upon the character or integrity of an officer without first submitting the material to the general executive board was subject to charges, as in the following example:

No local union or member . . . shall circulate, publish, or communicate to another local union or to members of the Association any statement reflecting on the character, official conduct, or good repute of any officer or member of the Association, or relating to matters of general interest to the membership . . . without first submitting the same to the general executive board and obtaining its approval. (International Association of Bridge, Structural and Ornamental Iron Workers)

Electioneering—Misconduct at the Polls. Procedural irregularity in the conduct of elections could be appealed by challenging a specific vote or the entire election, but was an explicit basis for disciplinary action in only a few constitutions. These prohibitions on election frauds, however, as the following clause illustrates, covered a wide variety of wrongdoing:

Any member convicted of misrepresenting returns, altering, mutilating, or destroying deposited ballots, voting fraudulently, or interfering with a member in the exercise of his or her right to cast his or her ballot . . . shall be punished . . . (International Union, Allied Industrial Workers of America)

Local officers who willfully or negligently disenfranchised voters by failing to perform an official duty were subject to charges under specific constitutional clauses in a few constitutions, as typified by the following clause:

Any secretary or officer of a local union found guilty of holding local union vote until too late to be counted . . . shall be charged with a flagrant display of nonunionism and shall be dealt with accordingly . . . (International Brotherhood of Bookbinders)

Moral Prohibitions. Union constitutions usually did not undertake specifically to regulate ethical or moral behavior. Of the 156 constitutions providing for trial, only 37 constitutions explicitly authorized punishment for immoral behavior. These prohibitions on behavior that was not criminal, yet morally offensive, were found most often in constitutions of unions whose members were engaged in the transportation industry. Willfully neglecting to support dependents, addiction to narcotics, or charging usurious interest were among the prohibitions listed.

Drunkenness was the most commonly forbidden type of immoral behavior, with the constitutions specifying "chronic drunks," "habitual drunkenness," and "alcoholism." One constitution provided that "no member who engages in the sale of intoxicating drinks can be admitted or retained as a member." Drunken or disorderly behavior at meetings, occasionally punished summarily, was also specified as a ground for invoking trial machinery in some constitutions.

A few constitutions specified that persons convicted of a crime may be disciplined by the union, as in the following example:

When a member is found guilty of the commission of a crime or serious wrongdoing against the local union or against the community, and when this crime or act of serious wrongdoing tends to bring dishonor upon the local union or the international organization, it shall be the duty of the local union to proceed to revoke the membership of such member. (Building Service Employees' International Union)

Grounds in Local as Against International Trials

As mentioned earlier, some constitutions listed separate grounds for instituting trials at the local and the international level. Several constitutions granted the local and international union exclusive jurisdiction over violations of its own constitution and bylaws. For instance, the constitution of the Upholsterers' International Union provided:

Charges of offenses against the International must be filed directly with the International Office.

Charges against a member involving offenses solely against a local union shall be filed with the local union involved.

Others provided concurrent jurisdiction over violations of the international constitution but granted local unions an exclusive right to try infractions of local bylaws, as in the following:

The local union shall have exclusive jurisdiction of charges of violations of local bylaws. The national executive board and the local union shall have concurrent jurisdiction of charges of violations of the national constitution and bylaws. (Brotherhood of Utility Workers of New England, Ind.)

Occasionally, jurisdiction was based upon a specific ground for discipline, with international level trials limited to cases involving specifically enumerated offenses while general judicial powers were vested in local union trial bodies. For instance, the United Mine Workers' (Ind.) constitution provided:

When any local officer, or any member not an officer, is accused of violating any of the organization's laws or any transgression against the organization . . . other than as to the particular offenses described in section 7 of this article, the charge must be first lodged with and prosecuted before the local union . . .

The particular offenses listed in this constitution were:

Section 7. When any officer . . . or . . . member . . . is charged with fomenting, leading, or encouraging a dual union or dual movement within the organization, upon charges being filed with the international executive board . . . a hearing . . . shall be had.

Grounds for exclusive international jurisdiction in other constitutions included Communist activity, failure to comply with international directives, and violations of the rules for conducting elections. In addition, a few international trial procedures could be invoked only in cases considered to constitute an emergency. These situations are analyzed more fully in the chapter on international trial jurisdiction.

Chapter IV. Trial Powers and Procedures at the Local Union Level

Constitutional provisions concerned with the discipline of officers and members establish, frequently in separate articles, the procedures to be followed at the local or international level. This chapter deals with procedures at the local union level. The chapter opens with a summary on the prevalence of such provisions and identifies the persons subject to trial. It describes how the trial machinery may be invoked and the safeguards which are established against false and frivolous charges. A major portion of the chapter deals with the trial body itself, especially its composition, assurances of impartiality, and the scope of its powers, particularly with respect to making a final decision as to guilt and penalty. Concluding the chapter is a brief discussion of recall procedures against local union officers.

Prevalence of Provisions

Of the 158 national and international union constitutions studied, only 12 did not explicitly grant local unions the authority to conduct trials (table IV-1); although 10 others gave local affiliates such powers, but were silent on procedural details. The remaining 136 constitutions specifically authorized locals to hold hearings, determine guilt or innocence, and assess penalties. A few of these constitutions (11) limited such trials to members only, but most (125) applied the trial provisions to both members and local officers. Sometimes the unions (19) provided different trial procedures, but most (106) covered both members and local officers by the same procedures.

Table IV-1. Provision for Trials of Members and Local Union Officers at the Local Union Level,
National and International Union Constitutions, Early 1961

Type of provisions	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Members and local officers -----	125	15,017.2	102	13,011.4	23	2,005.8
Identical trial procedures -----	106	12,587.7	87	10,598.2	19	1,989.5
Different trial procedures -----	19	2,429.5	15	2,413.2	4	16.3
Members -----	11	979.2	9	974.8	2	4.4
Constitutions providing for local union trials, but trial procedures were not specified ¹ -----	10	836.6	7	229.3	3	607.3
Constitutions not providing for local union trials -----	12	90.1	4	13.3	8	76.8

¹ Includes 9 union constitutions that provided trials for members and local union officers at the international level and 1 that provided international trials for local union officers only.

NOTE: Because of rounding, sums of individual items may not equal totals.

Of the 12 unions not specifically authorizing local union trials, 2 did not make provision to try members and local union officers at the international level. These were the Flight Engineers and the Life Insurance Agents (Ind.). Nine of the remaining 10 unions provided for trial of both groups at the international level, and the tenth applied international disciplinary procedures only to officers. These 12 constitutions, however, did not necessarily rule out local level disciplinary hearings. Conceivably, disciplinary action was permissive in some of these 12 unions, since such measures may be set forth in the constitutions and bylaws of subordinate organizations. Other constitutions were not completely silent, in that they contained language which implied the holding of trials at local levels or allowed local union participation in trials at a higher level. The Train Dispatchers, for example, retained authority to conduct trials at the international level, but local unions performed a pretrial fact-gathering function. Similarly, the Longshoremen's and Warehousemen's Union (Ind.) delegated general trial authority to the international union, but allowed subordinate bodies to ". . . adopt and enforce all necessary laws for local government which do not conflict with this constitution." The Shoe and Allied Craftsmen (Ind.) vested its local boards of directors with power to "summon" members for "enforcement purposes" and to levy fines, but made no further reference to trials or hearings. Finally, in requiring subordinate bodies to inform the international of violations and of the punishments that were assessed, the Journeymen Stone Cutters implied the existence of local hearings about which their international constitution was otherwise silent.

Slightly less obscure were those 10 constitutions which stipulated that accused members were subject to trial, but described neither how local trial machinery should be invoked, nor how it should operate once initiated. The constitution of the United Mine Workers (Ind.), for example, directed the accused to stand trial before his local union and assured him of an appeals machinery, but gave no details on procedural matters:

When any local officer or any member not an officer, is accused of violating any of the organization's laws or any transgression against the organization or any of its officers or members . . . the charge must be first lodged with and prosecuted before the local union . . . and the decision of the local union shall close the case so far as that tribunal is concerned, but . . . shall have the right of appeal to the next highest tribunal in authority and so on until a final decision is reached.

In much the same manner, the Stove Mounters prescribed that charges under certain circumstances might be filed with the local union, but did not designate procedures for the local to follow:

Any member in good standing . . . may make charges against another member . . . for violation of any part of this constitution, and such charges . . . shall be filed with the local union to which such member belongs.

The constitutions of the remaining 136 unions, covering virtually 16 million of the 16.9 million members included in this study, were more detailed in that they either described the procedures that each local was obliged to follow or created minimum procedural standards for the conduct of local trials. In great detail, for instance, the Communications Workers first directed their locals to erect trial machinery in their bylaws and then listed the minimum requirements that local trial procedures must meet:

The bylaws or rules of a local shall specify the manner in which an accused person shall be tried and must conform with the following minimum standards: . . .

Among the standards established were those pertaining to the size and composition of the tribunal, designation of prosecuting and defense counsels, time limits, testimony under oath, right to cross-examine witnesses, trial record, status of the accused, and right of appeal.

Local union bylaws thus generally governed trial procedures within the limits established by the international; in the absence of locally adopted trial procedures, the minimum standards set by the international, as in the Commercial Telegraphers' constitution, usually applied as the full trial procedure:

Charges may be made by a member against any other member pursuant to the bylaws of the particular unit in which the member being charged holds membership. If the bylaws of the particular unit . . . make no provision for preferring charges, the procedures outlined herein below shall apply.

Persons Subject to Trial

Among the 136 national and international unions detailing local union trial procedures, 11 restricted coverage to members only, referring trials of local union officers to higher levels. In 7 of these 11 unions, charges against local union officers were to be filed with intermediate agencies (i. e., district bodies, joint councils, etc.). The Brotherhood of Electrical Workers, for instance, first designated the local union executive board as the trial agency for members other than officers as follows:

All charges, except against officers and representatives of local unions . . . shall be heard and tried by the local union executive board . . .

Charges against officers, on the other hand, were directed to the next higher level, which, in this case, was the geographic district:

When any . . . officer or representative is charged with an offense, by anyone, such charges must be written and filed directly with the international vice president of the district in which the local union is located . . .

In a subsequent section, the international vice president in charge of the district was empowered to conduct the local union officer's trial.

Only 4 of the 11 constitutions placed the trial of local union officers at the international level, but special circumstances dictated this procedure for 2 of the 4 constitutions. The National Maritime Union, for one, had no local union officers in the commonly accepted sense of the term, but only branch officers and port agents, who, although elected by the membership, were directly answerable to the international union on all matters concerning their duties. The American Radio Association, similarly, had port "branch" officers elected by the whole membership to the international's general executive board.

The remaining two constitutions, those of the Grain Millers and the Mine, Mill and Smelter Workers (Ind.) provided that elected local union officers be tried by the international union. The Grain Millers' constitution specified action by both the international's president and secretary-treasurer in this judicial process:

. . . Such charges against a local union officer . . . may be filed by any member or officer of the organization, with the General Secretary-Treasurer . . . If it appears from the face of the charges that there is probable cause for trial, the (International President) shall forthwith appoint an international trial board consisting of the district vice president . . . and two other members of the general executive board.

In an overwhelming majority of constitutions (125), the local trial provision applied to both members and officers. Identical trial procedures applied to both in 106 constitutions. Some of these, however, were not entirely clear in specifying who was covered, usually stipulating, for example, that "members" were subject to trial, but a close reading of the discipline and related provisions indicated that in this context "members" included local officers as well. Most of the 106 were nevertheless precise in setting forth trial jurisdiction. The Building Service Employees' International Union, for example, in establishing minimum local union trial procedures, expressed joint coverage as follows:

A member or officer of a local union, charged with any offense constituting a violation of this constitution, shall . . . be tried by the local executive board or by the local union if such trial procedure is established by the bylaws of the local union . . .

Nineteen of the 125 constitutions stipulated that members and officers would be tried by the local union, but under different procedures. Twelve of the 19 provided impeachment proceedings against local union officers, commonly on charges of neglect of duty or absence from meetings. Generally, the officer's status as an officer but not as a member was affected by the outcome. The Newspaper Guild, for instance, carefully differentiated between offenses of an officer as an officer and offenses of an officer as a member, in the following manner:

Section I. A local officer, charged with violation of (specified clauses describing membership offenses) shall be charged as a member in accordance with the provisions of Article XII . . .

Section II. A local officer may be removed from office for dereliction in duty. Such removal shall not affect the officer's status as a member.

Subsequent sections of the same article detailed the procedure to be followed in the disciplinary removal of an officer.

Harsher penalties, directly affecting the membership status of an officer, were prescribed in an additional 6 of the 19 unions in which procedures covering officers were separated from those covering members. The Jewelry Workers, for example, after first specifying violations for which charges had to be filed and then requiring that the charges be in writing, established penalties affecting the officer's status as an officer and as a member:

. . . and if the accused is found guilty, the accused may be reprimanded, fined, removed from office, suspended or expelled, according to the severity of the charges.

Invoking Trial Machinery

National and international unions have erected a number of safeguards for the early stages of the trial process by defining a variety of procedural steps designed to restrain frivolous actions and abuses of disciplinary powers.²³ Such provisions designated those persons who are to carry responsibility at each step during the initiation of the trial machinery, and outlined their duties.

²³ Selected due process safeguards for trials at the local union and international level are discussed in chapter VI.

Typically, any local union officer or member could file charges against any other officer or member, but the accuser had to write and sign the charges. Preferring charges later found to be false was generally a punishable offense. Unions, as a rule, required that all charges specifically state the alleged violation and the constitutional provisions or union laws that were supposedly broken. Executive officers individually, or an executive body, were usually designated as receiving agents. A few unions identified an alternate receiving agent if charges were preferred against the person normally designated. Charges could be read to a membership meeting or published in the union's newspaper in order to disseminate them to the widest possible group. They could also be given a preliminary review to assure that they had merit.

The prevalence of these safeguards varied considerably, but provisions stipulating the form of charges (i.e., written, specific) were by far the most frequent, appearing in nine-tenths of the 136 union constitutions that gave details on local union trial procedures (table IV-2). Provisions designating those persons authorized to receive charges (table IV-4) were second most prevalent, found in about three-fourths of the 136 union constitutions. Safeguards to assure true charges (i.e., signatures, penalties for false charges) were found in three-fifths (table IV-3). Much less frequent were provisions requiring the publication of charges (table IV-5) and their review for sufficiency (table IV-6), found in about a fourth of the 136 constitutions.

Form of Charges. Of 136 national and international unions which specified local trial procedures, 125 established the form of charges (table IV-2). Uniformly, accusations had to be in writing and most constitutions also required that the charges specify in detail the alleged offense.

In 51 of the 125 unions, among them the Office Employees, written charges were the sole requirement:

Charges may be brought in writing by any officer or member of the local union or of the international . . .

In the Pattern Makers, refusal to reduce oral allegations to writing was cause for punishment:

Any member . . . shall be compelled to reduce his statements or accusations to writing . . . Should the member making the accusations refuse to reduce his statements . . . to writing within 10 days, he shall be fined \$10 without any further investigation.

The remaining 74 unions required that charges be both in writing and specific concerning the offenses allegedly committed. As acknowledged by the Typographical Union, the requirement for specific charges afforded the accused the opportunity to defend himself:

Accusations of charges must be made in writing by a member of the union in good standing. In all cases charges . . . shall be sufficiently specific . . . to permit the defendant to prepare a proper defense.

Only 7 of the constitutions among these 74 unions failed to stipulate what the requirement for specific charges entailed. Such constitutions called merely for "specific written charges" (Railway Clerks), or "written specifications" (Maintenance of Way Employees), or for charges "specifically set forth in writing" (United Plant Guards). The remainder of the 74 unions defined "specific" charges. Thirty-eight unions, for instance, ordered accusers to specify the nature of the offense in their statements of charges. Among these were the Bricklayers:

Whenever a charge is preferred against a brother . . . it shall state specifically the offenses alleged to have been committed, the number of times (if more than once), the dates and length of time during such commitment, the number and names of witnesses to such offense . . .

Table IV-2. Form of Charges in Local Union Trial Procedures, National and International Union Constitutions, Early 1961

Form of charges	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions providing for form of charges -----	125	15,403.0	104	13,431.8	21	1,971.2
Written and specific -----	74	11,470.6	60	9,773.4	14	1,697.1
Specify nature of offense -----	38	7,196.1	32	5,606.9	6	1,589.1
Specify nature of offense and rule or constitutional provision violated -----	29	3,173.0	23	3,085.6	6	87.4
No reference to details to be specified -----	7	1,101.5	5	1,080.9	2	20.6
Written -----	51	3,932.4	44	3,658.4	7	274.0
Constitutions not providing for form of charges -----	11	593.4	7	554.4	4	39.1

NOTE: Because of rounding, sums of individual items may not equal totals.

Table IV-3. Safeguards Relating to Charges in Local Union Trial Procedures, National and International Union Constitutions, Early 1961

Safeguard provision	Total studied	Form of charges		
		Written and specific	Written only	Form of charges not stipulated
All constitutions providing for charges in local union trial procedures -----	136	74	51	11
Constitutions providing safeguards -----	81	58	21	2
Charges must be signed and accusers subject to penalties for filing false charges -----	26	22	3	1
Charges must be signed -----	24	17	6	1
Accusers subject to penalties for filing false charges -----	23	12	11	-
Charges must be sworn or notarized -----	3	3	-	-
Other safeguards -----	15	4	1	-
Constitutions not providing safeguards -----	55	16	30	9

¹ Under 1 constitution, the accuser was required to sign charges and post a security deposit; under 1 constitution, charges had to be sworn and the accuser was subject to penalties if charges were proven false; under 1 constitution, the accuser had to sign the charges, post a security deposit, and was subject to discipline if charges were proven false; under 1 constitution, all charges had to be signed and an accuser of a local officer subject to penalties, if charges were proven false; and under 1 constitution, all false accusers were subject to penalties, and charges against local officers had to be signed by 15 members.

Table IV-4. Agent Receiving Charges in Local Union Trial Procedures, National and International Union Constitutions, Early 1961

Agent provisions	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
Unions			Members	Unions	Members	
All constitutions providing for charges in local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions providing for identity of agent -----	103	11,727.5	83	9,832.4	20	1,895.1
Local union officer -----	62	8,307.0	49	6,687.4	13	1,619.6
Secretary -----	31	4,435.2	24	2,870.0	7	1,565.2
Secretary, but different agent, if charges filed against secretary -----	9	1,792.0	8	1,779.4	1	12.6
President -----	9	292.8	6	259.6	3	33.2
President, but different agent if charges against president -----	6	1,060.8	5	1,054.8	1	6.0
Other officers -----	17	726.2	6	723.6	1	2.6
Local union body -----	39	3,390.6	32	3,115.1	7	275.5
Executive board -----	11	391.0	9	381.5	2	9.5
Permanent committee -----	2	24.5	1	23.5	1	1.0
Membership meeting -----	2	7.1	1	2.5	1	4.6
Local union -----	23	2,910.0	20	2,649.6	3	260.4
Executive board or permanent committee -----	1	58.0	1	58.0	-	-
Local officer or local body -----	22	29.9	2	29.9	-	-
Constitutions not providing for identity of agent -----	33	4,269.0	28	4,153.8	5	115.1

¹ Under 3 constitutions, charges were to be filed with any elected officers; under 1 constitution, with the president or secretary; under 1 constitution, with the secretary of the trial body; under 1 constitution with an international officer; and under 1 constitution, charges against members were to be filed with the local president but charges against officers were to be filed with a district director.

² Under 1 constitution, charges were to be filed with the recording secretary or the executive board; and under 1 constitution, charges against members were to be filed with the recording secretary while charges against local officers were to be filed with the executive board.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table IV-5. Publication of Charges to the Local Union Membership Prior to Trial, National and International Union Constitutions, Early 1961

Publication provisions	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for charges in local trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions providing for publication of charges -----	39	4,522.4	34	4,431.2	5	91.2
Charges to be read at membership meeting -----	¹ 34	4,415.0	30	4,350.3	4	64.7
Posted on bulletin board -----	1	9.1	1	9.1	-	-
Published in union newspaper -----	1	40.0	1	40.0	-	-
Other publication provisions -----	² 3	58.3	2	31.8	1	26.5
Constitutions not providing for publication of charges -----	97	11,474.0	77	9,555.0	20	1,919.0

¹ Under 28 constitutions, explicit provisions required reading of charges to the membership; while under 6 constitutions, provisions for preliminary review by the membership implied that charges were read at membership meeting.

² Under 1 constitution, the membership was notified by publication on bulletin boards, the union newspaper, or personal notification; under 1 constitution, charges against local officers were read at a membership meeting but there was no reference to reading charges against local members; and under 1 constitution, the membership was notified but the method of publication was not specified.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table IV-6. Preliminary Review of Charges Before Trial at the Local Union Level, National and International Union Constitutions, Early 1961

Preliminary review body	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for charges in local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions providing for a preliminary review of charges -----	31	3,013.0	26	2,953.7	5	59.2
Membership meeting -----	13	1,259.9	13	1,259.9	-	-
Local executive board -----	6	377.9	6	377.9	-	-
International president -----	3	193.2	3	193.2	-	-
Local president reviewed charges against officers; no provision for review of charges against members--	3	23.8	2	19.6	1	4.2
2 or more automatic reviews -----	3	1,105.6	2	1,103.1	1	2.5
Other review bodies -----	¹ 3	52.5	-	-	3	52.5
Constitutions not providing for preliminary review provisions -----	105	12,983.5	85	11,032.4	20	1,951.0

¹ Under 1 constitution, 2 permanent committees conducted the review, and under 2 others a committee appointed by the local union president performed this function.

NOTE: Because of rounding, sums of individual items may not equal totals.

The United Automobile Workers asked for the "exact nature" of the offense, and the Plumbers required only that the nature of the offense be stated "with reasonable certainty." In contrast, the Operating Engineers stipulated that "charges shall be specific, stating clearly, concisely, and as accurately as possible the time, place, and nature of the offense alleged."

Another 29 of the 74 unions required that charges be written, specific, and directly related to the constitutional provision or rule of law allegedly violated. The Railroad Signalmen, for instance, demanded a high degree of precision in setting forth allegations:

Charges must set forth the specific nature of the offense, the party or parties involved, time, place, and extent of offense, against whom committed, specific laws violated, amount of money or funds involved, if any, and must . . . clearly state with whom charges have been filed.

The constitution of the American Bakery and Confectionery Workers (AFL-CIO) similarly called for a clear statement of the constitutional provisions violated, again stressing the relationship of such a statement to the accused's ability to defend himself:

The charges must be filed in writing and be signed by a member in good standing. The charges must specify both the particular provisions of this constitution allegedly involved and the particular conduct constituting such alleged violation, in sufficient detail to afford the charged party fair opportunity to defend himself.

Several unions among the 74, mainly those in the railroad industry, required that all charges be presented in a prescribed affidavit form. Typical was that of the Brotherhood of Railroad Trainmen:

. . . No member shall be placed on trial unless charges duly specifying the offense, so as fully to apprise him of the nature thereof, and enable him to prepare his defense, have been presented to, and accepted by, the lodge in writing, signed by a member of the Brotherhood in good standing and in the following form:

I hereby charge Brother _____, a member of lodge No. _____, with unbecoming conduct (or violation of his obligation, or other offenses, as the case may be) in this:

Specification first: That the said brother did on or about the _____ day of _____ 19 ____ (here state full particulars).

When the charge is for continued offense, the specification may read in addition to the above 'and habitually since that time,' otherwise there must be a separate specification for each action.

Safeguards to Assure True Charges. Nearly 60 percent (81) of the 136 unions detailing local union trial procedures included various safeguards designed to deter reckless, poorly based accusations (table IV-3). Three unions, for instance, directed that charges be sworn or notarized, among them the Railroad Telegraphers:

I do hereby declare upon my honor as a member of the Order of Railroad Telegraphers, that the charges as subscribed to by me are true, and the same are not made out of malice or prejudice on my part; but with a desire to see the best interests of the order subserved, and in vindication of the vow taken when becoming a member of this order.

More commonly (24 unions), the requirement was that all charges be signed by the accuser, thereby ruling out trials on anonymous accusations. This was expressed in the constitution of the International Guards Union of America (Ind.) as follows:

Accusations . . . must contain the signature or signatures of the accusing party or parties. No anonymous letter or documents shall be honored for the purpose of charges against any officer or members . . .

Under some constitutions, the signature of more than one complainant was necessary to invoke the union's trial machinery. The Street, Electric Railway and Motor Coach Employees, for example, directed that charges against members be signed by at least 5 members and against officers by at least 10 members. Locals of the American Communications Association (Ind.) needed the endorsement of 15 percent of their membership to activate the trial machinery; except that in locals of 100 or fewer members, at least 20 signatures were required, whereas locals having over 1,000 members needed only 150 signatures. Two other internationals required accusers to leave a deposit with the union at the time of filing charges, the deposit to be forfeited if the charges were not upheld.

The power to penalize accusers for making false charges was granted in over half the 81 constitutions that provided the safeguards discussed. Penalties ranged from reprimands (Automobile Workers) to expulsions (Meat Cutters). Other punishments consisted of (1) suspension (i. e., Rubber Workers); (2) fines in a fixed amount (i. e., Glass Bottle Blowers); and (3) fines designed to cover the costs of the trial on the original charges (i. e., Iron Workers).

The accuser, under some constitutions, was to be summarily disciplined for issuing false charges (see chapter II), or else he, too, had to undergo a trial, as was required by the Plumbers union, to determine whether he had preferred the charges maliciously:

When a member is found guilty by the local union after due notice and trial . . . of filing false charges maliciously and in bad faith . . . he shall be assessed and punished by the local union . . .

Direct membership action replaced a full trial in the Rubber Workers constitution, but more than a majority vote was necessary to convict the accuser of making false charges. Furthermore, the vote could not be taken at the same meeting at which the original trial was held, thus counteracting the presence of high emotions, nor could the accuser be held liable for actions taken in good faith:

Any member bringing charges against another which he fails to sustain by proper evidence may, by a two-thirds vote of the membership present and voting at the next regular meeting of the local union following the meeting at which the decision of the trial board is reported and without referring the matter to any trial board, be reprimanded or suspended for a period not exceeding 3 months, or both reprimanded and suspended. This paragraph shall not be applicable in cases where the member bringing the charges can show that such charges were filed in good faith and with reasonable cause to believe that an offense was committed.

The constitution of the Ladies' Garment Workers, however, empowered the same trial body that heard the original charges to take action against the accuser if charges were false:

If a member or officer shall knowingly prefer false charges against any other member or officer . . . the accuser may be placed on trial for having brought the false charges and such trial shall be conducted in the same manner and before the same body as the trial of the charges made by the accuser.

Typically, those unions that prescribed the form of charges also guarded against anonymous and bad faith charges (table IV-3). Of the 74 unions which required that charges be written and specific, for instance, more than three-fourths (58) also provided safeguards against false charges. On the other hand, fewer than half (21) of the 51 unions which required only that charges be in writing provided assurance of true charges. These were largely concerned with penalizing those who presented false charges. Finally, of the 11 unions that did not stipulate the form of charges, only 2 indicated that allegations should be in writing, 1 union requiring that the charges be signed, and the other union requiring the charges be signed and false accusers punished.

Filing Charges. As a general rule, both members and local union officers were authorized to prefer charges against other local union officers and members. A few constitutions, in fact, obligated officers and members to bring charges when aware of violations, as, for example, in the following:

It shall be the duty of any member of a local lodge who may possess information that a member of his lodge has violated the international constitution to immediately prefer charges in writing to the president of the lodge . . . (International Die Sinkers' Conference, Ind.)

Not filing charges when having such information was cause for punishment in its own right in the International Brotherhood of Electrical Workers, among others:

Any member may be penalized for committing any one of the following offenses: . . . (3) having knowledge of the violation of any provision of this constitution, or the bylaws or rules of a local union, yet failing to file charges against the offender or to notify the proper officers of the local union.

A relatively small number of constitutions (22 of 136) named international officers among those empowered to present charges, but none gave these international executives sole authority. While some of these constitutions very carefully described and limited the extent of the authority granted to an international officer, most of the 22 permitted the international officer to file charges on any grounds. These aspects are discussed in the next chapter which deals with trial procedures at the international level.

In 33 of the 136 constitutions (table IV-4), the agent or agency with whom charges were to be filed was not identified. Thus, a member filing charges against another member or local union officer could find himself in a procedural quandary. The charges might never have been examined by a local union trial committee, simply because he did not know with whom to file.

Another 62 constitutions, however, formally designated local union officers as receiving agents, most commonly the local union secretary (40) and occasionally the local union president (15). Among these 62 constitutions only

15 provided for alternate receiving agents in the event charges were filed against the person who normally would be the receiving agent. In such an event, the Auto Workers adopted the following alternate designation:

Charges must be submitted to the recording secretary of the local union or the shop organization as the case may be . . . provided that if the charges are against the recording secretary they shall be submitted to the president of the local union or the chief executive officer of the shop organization as the case may be . . .

An additional 39 constitutions designated a union body, rather than an officer, as receiving agent. More than half (23) of these 39 constitutions provided that the "local union" should act in this capacity without specifying the group or individual directly responsible. The remaining 16 unions designated the local union executive board as illustrated below, or a permanent committee, or the membership meeting:

Any member or local union officer may file charges with the local union executive board against any member or officer of the local union alleging the commission of any of the offenses enumerated . . . (Rubber Workers)

The Jewelry Workers provided in its constitution that accusations against members were to be filed with the recording secretary while charges against officers were to go to the executive board. The Elevator Constructors, on the other hand, stipulated that charges against officers or members could be filed either with the local union president or the local union executive board.

Publication of Charges and Preliminary Review. Thirty-nine constitutions offered an additional safeguard by requiring that local unions bring charges to the attention of the membership (table IV-5). Nearly half (17) of these also called for a preliminary review of charges.

Reading of charges at a membership meeting was by far the most frequently adopted form of publication, appearing in 34 of the 39 constitutions requiring publication:

Charges against members must be signed, submitted and read at a regular meeting of local union. (Asbestos Workers)

The Carpenters stipulated that charges would be read at one meeting but that formal consideration of the charges would be delayed until the next meeting, thus allowing for a further dissemination of the accusations to those members who had not attended the first meeting, but who might be interested in participating in the subsequent proceedings:

The charges must be read at the meeting and lay over until the next meeting, and the member must be notified by registered mail . . . to be present . . .

One union provided that charges be published in the union newspaper and a second union provided for charges to be posted on the union's bulletin board. The Brotherhood of Locomotive Engineers (Ind.) was 1 of the 17 unions that authorized publication of charges preparatory to a preliminary review of their sufficiency:

. . . The chief engineer of the division shall, at the next regular meeting thereof, after charges are preferred, cause the secretary-treasurer to read said charges in open meeting and appoint a committee of 3 to investigate the charges and report its findings to the next regular meeting unless further time shall be given.

Provision for a pretrial review of charges appeared in 31 of 136 constitutions studied (table IV-6). In its purpose, such a review was somewhat akin to that performed by a grand jury, and it served two closely related purposes: First, a preliminary investigation might prove that the allegations had no merit, resulting in their being dropped before trial; secondly, it served as a procedure for gathering all pertinent information for later use by the trial body.

Of the 31 unions providing for such review, only 3 designated the international president as the reviewing agent. More generally examining responsibilities were delegated to the membership as a whole, or to a committee elected by the membership, as in the Oil, Chemical and Atomic Workers:

. . . such charges must be presented to the membership at a regular or special meeting called for that purpose. A majority of the members present and voting . . . shall determine whether or not the charges warrant a trial, and if so, whether the trial shall be referred to an investigating committee or be held before the membership as a whole.

Less frequently, the investigation was to be conducted by the local union executive board, or a committee appointed by it:

When such charges are preferred against any member, and the general committee or executive board of the division involved finds that the charges have sufficient merit to warrant further proceedings, the chairman of the committee, or of the executive board shall furnish the accused with a copy of the charges . . . (Commercial Telegraphers)

Three unions provided for more than one preliminary review. The Machinists, for instance, first allowed the local union president to evaluate charges, but his decision to drop them was subject to a further automatic membership review. The Typographers and the Watch Workers (Ind.) in effect also authorized a two-step review by a vote on two separate questions: (1) Whether the charges as presented were deemed cognizable; and, after investigation by a special committee, (2) whether the charges were worthy of trial.

Four unions provided for appeals from preliminary review decisions. These were not automatic reviews by a second body as noted above, but were to be initiated by an interested party who felt aggrieved by the outcome of the first preliminary review. In the Transport Workers, for example, a local executive board's decision to drop charges could be appealed to the international union's executive council, while in the Upholsterers the accused could appeal first to the membership meeting and then to the international president. The Chemical Workers similarly could appeal a local executive board's decision to dismiss charges to the membership meeting, but a two-thirds majority vote was necessary to overrule the decision. Finally, in the Allied Industrial Workers, where the membership meeting was to serve as the preliminary review body, the accuser's appeal went directly to the international executive board.

Composition of the Trial Agency

An unbiased tribunal is fundamental to the fair administration of justice. Therefore, the composition of the trial body, the method of its selection, and the provisions guaranteeing its impartiality are of particular relevance. Unions select trial bodies in different ways, as described below. Unlike the courts, however, unions may divest the trial bodies of final decision-making authority, as described in the next section.

Although all 136 union constitutions which provided for trials at the local union level referred to trial bodies (table IV-7), in 19 they were not clearly defined. Nine of the 19 provided for trial by a "committee" of the local union, without prescribing its makeup or selection. The remaining 10 were equally indefinite and usually delegated this authority to the local union:

(The accused) shall be given an impartial trial by his local affiliate as provided in the bylaws of said local affiliate . . . (Leather Workers)

Table IV-7. Local Union Trial Bodies, National and International Union Constitutions, Early 1961

Trial body	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions providing for trial by a local governing body -----	62	7,180.2	56	5,631.4	6	1,548.8
Constitutions providing for trial by local union membership -----	28	1,340.5	20	1,139.7	8	200.8
Membership meeting -----	16	776.5	12	697.8	4	78.7
Committee selected by the membership -----	12	564.0	8	441.9	4	122.1
Constitutions providing for trial by an agent appointed by the local union president -----	15	1,898.9	11	1,884.7	4	14.2
Constitutions providing panel methods for selecting a trial body -----	10	2,153.4	8	2,149.3	2	4.2
Panel selected by drawing lots -----	5	1,282.8	5	1,282.8	-	-
Panel elected by the membership ---	3	836.8	2	836.0	1	.8
Other panel methods -----	1 ²	33.8	1	30.4	1	3.3
Constitutions providing for trial by a committee, no reference to details ---	9	1,710.2	7	1,633.5	2	76.6
Constitutions providing for trial by the local union, no reference to details -----	10	1,540.2	7	1,374.6	3	165.6
Constitutions providing for trial by other bodies -----	2 ²	173.1	2	173.1	-	-

¹ Under 1 constitution, the local president appointed a panel; and under 1 the panel was composed of presidents of adjoining local unions.

² Under 1 constitution, an investigating committee conducted hearings in locals of more than 200 members while the membership meeting held trials in smaller locals; and under 1 a 5-member trial committee included 2 persons appointed by the president, 2 by the vice president, and 1 by the accused.

NOTE: Because of rounding, sums of individual items may not equal totals.

All other union constitutions (117) clearly designated who was to serve on the trial board. Most frequently, the local's governing body acted as the tribunal. This was authorized in 62 unions having a combined membership of 7.2 million. An additional 15 unions, accounting for another 1.9 million members, empowered the local president to appoint the trial board. In 77 unions,²⁴ therefore, the local union's executive officers served on or selected the trial committee, although in most of these another body, usually the membership, had the power to hand down a final decision.

²⁴ The 19 unions referred to above may also fall into this category.

Among the 62 unions naming a local governing body to act as trial committee was the Hatters, which provided the alternatives of trial by full executive board or by a subcommittee responsible to the executive board as follows:

Charges made by a member or officer of a local union against another member or officer of the same local union shall be tried by the local executive board or by a subcommittee to be designated by such board, such committee to report back its findings to the executive board, and its recommendations, if any.

The Transport Workers, on the other hand, placed hearing authority exclusively in the hands of an ad hoc executive board subcommittee rather than in the full board:

In the event that the local executive board should decide that the charges warrant investigation and hearing, the local executive board shall elect a trial committee of three of its own members and shall designate one of its own members to present the charges before the trial committee. The members of the trial committee shall be selected by the executive board specifically for the trial of such charges . . .

The Machinists were among the 15 unions giving local union presidents the power to appoint trial boards. In this union, the hearing agency also conducted a preliminary investigation of the sufficiency of charges:

. . . Whenever charges have been preferred against a member, the president of the local lodge shall promptly appoint a trial committee of not more than five members, one of whom shall act as chairman and one of whom shall act as secretary. The trial committee shall conduct an investigation of the charges and decide whether there is sufficient substance to warrant a trial hearing being held. If the trial committee decides a trial hearing is warranted, the committee shall, within one week of its appointment, notify the member of the charges against him and when and where to appear for trial . . .

The remaining 38 unions vested trial responsibility either in groups other than local union officers, or else prescribed different methods for choosing tribunal members. In 28 unions, for instance, local union members were responsible. Sixteen of these unions required that trials be held at regular or special membership meetings, as in the United Textile Workers:

(charges) will be presented to the Executive Committee of the local union with complainant present. If sufficient charged grounds are found to warrant a hearing, the member or officer charged will be . . . told when to appeal at the next regular meeting, or a special meeting called for that purpose . . . Any member or officer against whom charges have been preferred, who refuses to appear at the investigation or hearing of the general body shall stand suspended . . .

The remaining 12 unions, including the Stone and Allied Products Workers, authorized the membership to select a committee to hear the evidence:

The local shall elect a trial committee of at least seven members. Election of the trial committee will be held at a regular meeting of the local or a special meeting called for that purpose.

Another 10 unions adopted panel procedures for selecting members to serve on boards. Half of these unions provided for a random selection from

among the members present at the trial meeting to establish a roster from which the final trial committee could then be chosen. This was set forth in the Rubber Workers constitution as follows:

A trial board of seven members and two alternates to try each case shall be chosen by lot from the members present at the regular meeting of the local union at which the charges are reported.

Since this constitution is one of a small number that described panel selection procedures in detail, the pertinent clauses are quoted in full below:

(b) The choosing by lot shall be as follows:

1. The names of those present at the meeting shall be placed in an apparatus from which the secretary of the local union shall draw 15 names. The names as drawn shall be placed on a list in the order thus drawn.

2. If the secretary or any member of the 15 so drawn has any direct connection with the charges, or is related to, or is the counsel for either the accused or complainant, or may be a witness, he shall be disqualified from acting. In the event of disqualification of the secretary, his place shall be taken by the highest ranking officer of the local union not interested in the case. Any prospective member of the trial board, the secretary or officer acting in his place shall be subject to interrogation by either party, or his counsel, in respect to the matters set forth herein for the purpose of ascertaining his qualification to act as a member of said trial board, or in the capacity as designated herein.

3. In the event of the disqualification of any prospective member of the trial board, additional names shall be drawn to secure the necessary number to fill the trial board.

4. The complainant or his counsel shall be furnished a list of the names as drawn; the accused or his counsel shall be furnished a list of the names as drawn. The complainant or his counsel and the accused or his counsel shall be given the right to strike as many as three names from said list. The complainant and the accused shall exercise their right to strike as many as three names from said list without advising each other what names are being stricken. The list of names shall thereupon be submitted to the secretary of the local union who shall advise the local union what names have been stricken by the complainant and the accused. The first seven names remaining on the total list shall constitute the trial board. The next two names shall constitute the alternates on the trial board.

5. If the complainant, or the accused, or either of them, is not present at the meeting, and if either the complainant or the accused, has not designated counsel as hereinabove provided, the trial board shall be selected notwithstanding. Should either the complainant or the accused be present personally or represented by counsel and the other not present and not represented by counsel, the trial board shall be selected as provided above. The right to strike

names or interrogate prospective members of the trial board from the list drawn may be exercised by the complainant or the accused who is present or the designated counsel of either party. After exercising such right, the trial board shall consist of the first seven names remaining on the list and the alternates shall consist of the next two persons' names on the list. The financial obligation of the local union shall be restricted to the personal expenses incurred or earnings lost by the members of the trial board and to the payment of compensation to a reporter or stenographer for recording the testimony and preparing a transcript, one copy of which shall be furnished by the local union to the accused upon his request in ample time to permit preparation of an appeal brief.

(c) If charges are filed by or against the president or vice president of a local union the officer by or against whom charges are filed shall not preside in that portion of the meeting where a trial board is selected. In the event charges are filed by or against the president and vice president of a local union thereby disqualifying them to preside at the meeting for the selection of a trial board, that portion of the meeting of the local union at which the trial board is to be selected shall be presided over by some person designated by the international president.

The person presiding at the meeting at which the trial board is selected is empowered to determine the qualifications of prospective trial board members under this section.

(d) The trial board shall meet after the business meeting and select their chairman.

Under the constitutions of three other unions, among them the Carpenters, the panel was to be nominated at a membership meeting as follows:

The local union or district council shall nominate the names of 11 members most competent of giving a fair and impartial hearing of the case. The recording secretary shall place the names in the ballot box and the vice president shall draw the same from the box and call the names aloud until five have been drawn, when the case will be given to them for investigation.

All charges shall be referred to a trial committee, consisting of five, the accused and the accuser having the alternative of each challenging any three members of said committee. Any member so challenged shall not serve on the committee.

One of the remaining two unions providing for panel methods authorized creation of a panel of presidents from neighboring locals, while the second union authorized establishment of a permanent nine-member panel to be appointed by the president with the advice and consent of the executive board, subject to membership ratification.

Finally, two constitutions identified other kinds of trial arrangements. One permitted an investigating committee to hear charges and take evidence in

locals of more than 200 members, but in smaller locals the membership meeting was to conduct the trial. The second created an ad hoc trial committee of five members with two appointed by the local union president, two by the vice president, and one by the accused.

Fifty-six unions provided various assurances that trial committees would be impartial (table IV-8). Most frequently, interested parties such as the accused, accuser, and witnesses were automatically to be disqualified from serving on the trial board. Such provisions appeared in 38 constitutions, including that of the Hatters:

Any local . . . officer involved in any cases either as accuser or defendant shall be disqualified from sitting on the trial body in his own case.

Table IV-8. Selected Impartiality Provisions in Local Union Trials, National and International Union Constitutions, Early 1961

Impartiality provisions	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions specifying impartiality provisions -----	56	10,628.5	48	9,108.0	8	1,520.6
Interested parties disqualified -----	38	7,355.5	31	5,835.7	7	1,519.8
Accused permitted to challenge member on trial body or panel -----	10	1,649.0	9	1,648.2	1	.8
Both disqualification and challenge provisions -----	5	1,371.4	5	1,371.4	-	-
Other impartiality provisions -----	13	252.7	3	252.7	-	-
Constitutions not specifying impartiality provisions -----	80	5,367.9	63	4,878.2	17	489.6

¹ Under 1 constitution "disinterested" members were explicitly required only at trials of local officers; under 1 constitution the accused and accuser were permitted to challenge 3 members if trial was held before a committee but no challenges if the membership meeting heard the case; and under 1 constitution interested persons were always disqualified and if an elected or appointed trial body heard the case, the accused was permitted to challenge any 2 members.

NOTE: Because of rounding, sums of individual items may not equal totals.

These clauses were found largely among unions authorizing their local governing bodies to act as the trial agency (table IV-9).

In another 10 unions, interested parties were not to be automatically disqualified, but their seating on the trial board or their appearance on a panel could be challenged. Six of the 10 unions were among those which selected trial committee members by lot or by another panel method. Both the accuser and the accused could issue challenges. Usually their challenges were to be limited in number, and, upon their exhaustion, a predetermined number of names would

Table IV-9. Specifications of Impartiality for Local Union Trial Authorities, National and International Union Constitutions, Early 1961

Type impartiality provision	Total studied	Local trial authority						
		Governing body	Member-ship	President	Panel method	Com-mittee	Local union	Other trial authority
All constitutions providing local union trial procedures -----	136	62	28	15	10	9	10	2
Constitutions specifying impartiality provisions -----	56	27	5	8	9	4	3	
Interested persons disqualified -----	38	22	3	6	1	3	3	
Accused permitted to challenge member on trial body or panel -----	10	2	1		6	1	-	
Both disqualification and challenge provisions -----	5	1	-	2	2	.	-	
Other impartiality provisions -----	13	2	1	-				
Constitutions not specifying impartiality provisions -----	80	35	23	7	1	5	7	2

¹ See footnote 1, table IV-8.

remain. These thereupon would constitute either the trial body, or the final list from which the tribunal would be selected. The Automobile Workers adopted the following procedure:

. . . a total of 19 names shall be drawn. The names shall be read off in order in which drawn . . . The charging member and charged member, or their designated counsel, shall each have the right to strike as many as five names without stating any grounds or reasons, it being intended that each side be limited to five challenges even though more than one charged or charging party is involved. The trial committee shall consist of the seven members whose names were first drawn, and neither withdrawn nor stricken, and the next two members in order of drawing who have not been withdrawn nor stricken shall serve as alternates.

In 4 of these 10 unions the right to challenge was extended to those situations in which there was a permanent, rather than an ad hoc, trial committee. The Stage Employees Union, for instance, provided for challenging a member of the executive board or of a committee established by the executive board:

The accused shall have the privilege of challenging the right of any member of the board or committee to sit upon his case, and in the event of such challenge, the other members of the board or committee shall pass upon its validity, sustaining or overruling it.

Five unions provided for disqualification of interested parties and also established the right to challenge, while another three offered very specialized impartiality provisions.

Scope and Penalties

International union constitutions differed considerably concerning the scope of authority that was granted to local union trial bodies. Less than half of the constitutions gave the trial bodies final powers to determine guilt and impose a penalty; the majority, on the other hand, reduced trial committees to advisory roles by divesting them, either fully or partially, of final authority and by placing this power in other local bodies. Overwhelmingly, whether it constituted a trial or a nontrial body, the local union membership was to be the final decisionmaker.

Only rarely were local union powers to impose punishment limited by supervision and control of the international union, other than through normal appeal procedures. Constitutions of over half the unions giving details on local union trial procedures specified the vote necessary to impose sentence. Majority votes were most prevalent, but two-thirds votes were also frequently stipulated. Usually, the same margin was required for expulsion as for lesser penalties. In a significant number of constitutions, however, the size of the required votes differed, invariably requiring a higher vote to expel. The meaning of majority and two-thirds votes differed among unions. Most commonly, a majority or a two-thirds vote of those present at a meeting was to be required, although counts limited just to those voting were often stipulated.

Scope and Limitation of Trial Body Authority. Only 58 of 136 unions, covering nearly 6 million members, specifically authorized local trial bodies to make final and binding decisions (table IV-10). Typical was the brief statement of authority incorporated in the constitution of the Aluminum Workers:

If the charges, or any portion thereof, are sustained, then the trial body shall render judgment and impose disciplinary action as provided for in this constitution. If the charges are not sustained, the same shall be dismissed and the accused shall continue to be entitled to full rights of membership or office in the local union.

In an additional 59 unions, affecting 6.9 million members, the trial board's authority was limited to issuing recommendations for ratification by another body. The trial committee was to hear witnesses, gather and summarize evidence, and issue findings concerning guilt and proposed penalties, but these penalties were to be approved by another body, usually the membership meeting. For example:

. . . said committee shall hear all evidence and render judgment in accordance therewith and report such judgment and recommendations to the secretary of the local union . . . The judgment and recommendations shall be submitted to the next regular meeting of the local union, or a special meeting called for such purpose . . . its recommendation shall become effective only if approved by a vote of the majority of the local union membership present at such meeting . . . (Allied Industrial Workers)

Included among the 59 unions were a few that not only prohibited local trial committees from making final decisions, but also restricted their authority to recommend penalties. The Boilermakers, for instance, permitted local trial boards to issue findings as to the guilt or innocence of the accused, but such boards could not advise a penalty except to advocate leniency.

Table IV-10. Extent of Local Union Trial Body as Decisionmaking Authority, National and International Union Constitutions, Early 1961

Extent of decisionmaking authority	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for local union trial bodies -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions specifying the extent of decisionmaking authority:						
Trial body decided guilt and penalty -----	58	5,945.4	44	4,108.0	14	1,837.3
Trial body's decision was advisory -----	59	6,917.6	51	6,783.1	8	134.5
Trial body's decision was final in some respects, but advisory in others -----	15	2,907.4	13	2,870.5	2	36.9
Final as to guilt; advisory on penalty -----	5	1,513.2	4	1,511.4	1	1.8
Final as to guilt and penalty, but could be modified -----	7	876.2	7	876.2	-	-
Final as to guilt and all penalties except expulsion -----	3	518.0	2	482.9	1	35.1
Extent of decisionmaking authority varied for different trial bodies ----	¹ 3	195.7	2	194.2	1	1.5
Other -----	² 1	30.4	1	30.4	-	-

¹ Under all 3 constitutions, decisions rendered by the local membership meeting acting as a trial body were final, but decisions rendered by appointed or elected trial committees were advisory.

² Under this constitution, the decision was final or advisory, depending on jurisdiction of the local union (e. g., wire service locals vs. newspaper locals).

NOTE: Because of rounding, sums of individual items may not equal totals.

As a general rule, the trial body was to submit its advisory report in writing to the nontrial body empowered to issue the final decision so that the report might be read and voted upon. The Firemen and Oilers, for example, provided that the written report be read at the first membership meeting following the trial, and that a vote be taken to accept or reject the decision. A similar procedure was noted in the constitution of the Broom and Whisk Makers:

. . . When the committee has come to a decision in the case, the chairman shall at the next regular meeting, deliver the decision and synopsis of evidence, in writing, to the presiding officer who shall read the same to the union. The union shall then proceed without debate to vote upon the question, and if the accused is found guilty he shall be sentenced as the constitution and bylaws direct.

Other unions among the 59 made the choice broader by allowing the ratifying nontrial body, in addition, to modify the report. Additional constitutions established procedures whereby the nontrial body could either consider separately each major part of the trial agency's report or examine each charge separately, voting first on guilt, and, if guilt was found, voting on penalty. In addition, in a small number of unions, some or all parties to the trial were specifically authorized to state their case before the ratifying body. Thus, in the American Flint Glass Workers' Union, for one, only the accused was so authorized, while in the Brotherhood of Maintenance of Way Employees both the accused and the accuser,

or their representatives, could avail themselves of this right. To these two participants, the Stereotypers added the trial committee itself, so that all three positions might be heard before the final vote was held. Finally, the Typographical Union provided the full membership authorization to debate the trial committee's report before reaching a verdict. A prevote debate was held by the Upholsterers under the following procedure:

. . . After the secretary has read the report of the trial board, the chairman of the meeting shall offer the accused and the accuser the privilege of presenting their respective statements orally to the meeting. The accused shall have the privilege of speaking first, followed by the accuser or the accusers who in turn shall be followed by the accused in final rebuttal. The accused and the accuser shall be granted an equal amount of time, and shall be confined to speaking only on matters germane to the case and presented during the trial. There shall be no other speakers or debate . . . The members shall decide . . . on each of the findings of the trial board in the following order:

1. Guilt or innocence; and
2. Penalty, if any.

An occasional union among the 59 restricting trial bodies to advisory functions also specified the voting procedures that were to govern nontrial bodies in determining penalties. Votes, for instance, might be taken on the lightest punishment first and then on successively heavier penalties until one finally achieved the required number of votes. The Association of Siderographers, on the other hand, reversed this procedure and authorized a vote on successively lighter penalties, as follows:

. . . When the report of the committee is made, the local shall first vote on sustaining the report . . . as to the guilt or innocence of the accused, and if found guilty by the association, the next vote shall be on the punishment to be inflicted. The vote shall be by ballots, and the first shall be on expulsion. If the vote is not in the affirmative, the next vote shall be on the question of fine; if in the negative, the next vote shall be on reprimand. If after going through the different grades of punishment there has been no decision, the vote shall be taken over until a decision is arrived at.

Fifteen unions vested local union trial bodies with decisionmaking powers that were partially final and partially advisory (table IV-10). In five unions, for instance, the trial body's decision on guilt was to be final, but advisory only on penalties as illustrated in the Rubber Workers' constitution:

The findings and recommendations of the trial board shall be reported at the next regular meeting of the local union following the trial board's decision. A vote by secret ballot shall then be taken on the penalty, if any, recommended by the trial board, but the trial board's recommendations on penalties may be amended . . . The local union has no power to change the decision of the trial board with respect to the guilt or innocence of the accused . . .

In seven unions, the report of the trial body was to be final if approved by the nontrial body:

The trial committee shall render its findings and judgment in writing . . . In the event the judgment and findings of the trial committee provide for disciplinary action . . . such findings shall be final unless rejected by a two-thirds majority vote of the members by secret ballot at the regular meeting at the headquarters of the local. (Masters, Mates and Pilots)

One of these seven unions, the Cigar Makers, gave full authority to the local union to discipline, subject to approval by the international executive board. In 3 of the 15 unions, trial committees were empowered to make final decisions except where expulsion or suspension was at issue, in which case the final decision was to be referred to another body.

Where, as in three unions, provision was made for trial by the membership meeting or a specially elected or appointed committee, the latter's findings were subject to review and ratification.

Identity of the Decisionmaking Body. In most unions, the final decision as to guilt and penalty rested with the local union membership or in a special committee composed of members elected or selected at a membership meeting (table IV-11). In contrast, only 29 unions vested final power in the local's executive board or in a subcommittee of the executive council, while 18 unions created a variety of other arrangements.

Table IV-11. Final Decision Authority in Local Union Trials,
National and International Union Constitutions, Early 1961

Decision authority	(Members in thousands)					
	Total studied		Trial body		Nontrial body	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing local union trial procedures -----	136	15,996.4	58	5,945.2	78	10,051.1
Membership meeting or special committee elected at membership meeting -----	89	9,875.2	18	604.8	71	9,270.4
Local executive board or subcommittee -----	29	5,010.4	26	4,382.5	3	627.9
Local executive board or special trial body -----	4	223.8	4	223.8		
Special trial committee selected by a panel method -----	2	4.9	2	4.9		
Subject to international executive board review and approval -----	1	6.3	-	-	1	6.3
Local union -----	7	547.4	6	493.9	1	53.5
Unspecified committee -----	1	76.2	1	76.2	-	-
Other -----	3	252.1	¹ 1	159.1	² 2	93.0

¹ In locals with less than 200 members, the trial body was the membership meeting, and in locals of 200 or more members, it was an investigating committee. In both cases, the designated body rendered the final decision.

² Under 1 constitution, final decisions were rendered by the local union president; under 1 constitution, the membership meeting was designated as the final decisionmaker except that the local union might otherwise arrange its trial procedures should it so desire.

NOTE: Because of rounding, sums of individual items may not equal totals.

In the 78 situations where nontrial bodies were given the power to make final decisions, the membership meeting was most frequently designated (71 cases). Only three constitutions referred final authority to the local executive board, or subcommittee, a fourth to the international executive board, and a fifth to the "local union" without defining further which local union body was to employ this authority. Finally, the Barbers Union ordered its trial bodies to report their findings to the local union president who then would render the final decision, and the Jewelry Workers gave final authority to the membership, unless local union bylaws provided otherwise.

Special Limitations Relating to Suspension and Expulsion. Only 9 of 136 unions placed restrictions upon the rights of their local affiliates to discipline, either by limiting the penalties that could be imposed or by requiring international approval of such actions. In the Railway Patrolmen, Hosiery Workers, and the Stone and Allied Craftsmen (Ind.), for instance, the disciplinary authority of subordinate organizations was limited to the imposition of fines. Similarly, local unions of the American Communications Association (Ind.) were allowed to suspend those members found guilty of a variety of offenses, but were denied the right to levy lesser or harsher penalties. To expel members, the Bricklayers locals needed international executive board approval, as did the Boilermakers locals for suspensions and expulsions, locals of the Tool Craftsmen (Ind.) for fines and expulsions, and those of the Plumbers for suspensions, expulsions, and fines over \$100. Locals of the Molders were required to submit all proposed suspensions or expulsions to their international president for approval.

Over half the 136 unions giving details on local trial procedures established the size of the vote necessary to impose sentence. Seventy-three unions specified the vote required before punishment, other than expulsion, could be carried out (table IV-12); and 74 unions set the size of the vote necessary to

Table IV-12. Size of Vote Required to Impose Penalties Other Than Expulsion in Local Union Trials, National and International Union Constitutions, Early 1961

Size of vote	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions specifying size of vote to impose sentences other than expulsion -----	73	9,776.7	60	9,568.9	13	207.7
Requiring majority votes -----	46	7,252.2	37	7,161.1	9	91.1
Majority present -----	20	2,760.7	15	2,707.3	5	53.4
Majority not defined -----	13	1,859.3	11	1,854.1	2	5.2
Majority voting -----	8	1,471.7	6	1,439.1	2	32.5
Majority eligible -----	5	1,160.7	5	1,160.7	-	-
Requiring two-thirds votes -----	15	1,086.0	13	1,071.9	2	14.1
Two-thirds present -----	7	741.7	7	741.7	-	-
Two-thirds voting -----	8	344.4	6	330.3	2	14.1
Requiring 60 percent vote -----	1	41.3	1	41.3	-	-
Size of vote differed with penalty ---	9	988.9	7	886.4	2	102.5
Size of vote differed for other reasons -----	¹ 2	408.2	2	408.2	-	-
Constitutions not specifying size of vote -----	63	6,219.7	51	4,417.2	12	1,802.5

¹ 1 constitution required different size votes according to status of the accused as an officer or as a member; and 1 constitution required different size votes according to composition of the trial body.

NOTE: Because of rounding, sums of individual items may not equal totals.

expel members and local officers found guilty of major offenses (table IV-13). In total, 76 unions established size of votes necessary (table IV-14) in almost all cases for both expulsion and lesser penalties. Of the remaining 60 unions—that is, of those not stipulating size of votes—over two-thirds (46) were about equally divided between those vesting final decisionmaking power in the membership and in the local union executive board.

Among the 76 constitutions stipulating size of the vote, the voting requirements were more stringent in a number of unions when loss of membership was involved. Thus, under more than half of these constitutions, a majority vote was sufficient to impose penalties short of expulsion while approximately 20 percent required a two-thirds vote for penalties other than expulsion. To expel, however, a two-thirds vote was stipulated in 36 percent of the constitutions specifying size of vote, and slightly less than 50 percent of the unions required a majority vote. Only one union, the Mechanics Educational Society, set a 60 percent vote for all types of penalties, while a few unions, where expulsion was at stake, stipulated a three-fourths vote.

Table IV-13. Size of Vote Required to Expel in Local Union Trials, National and International Union Constitutions, Early 1961

Size of votes	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing local union trial procedures -----	136	15,996.4	111	13,986.2	25	2,010.2
Constitutions specifying size of vote to expel -----	74	9,626.5	60	9,383.7	14	242.8
Requiring majority votes -----	35	5,659.3	31	5,606.7	4	52.6
Majority present -----	18	2,479.9	14	2,427.3	4	52.6
Majority not defined -----	9	1,754.2	9	1,754.2	-	-
Majority voting -----	5	484.7	5	484.7	-	-
Majority eligible -----	3	940.5	3	940.5	-	-
Requiring two-thirds votes -----	27	2,850.7	20	2,668.0	7	182.7
Two-thirds present -----	14	961.7	12	860.7	2	101.0
Two-thirds voting -----	13	1,889.0	8	1,807.3	5	81.7
Requiring three-fourths votes -----	8	914.0	6	907.3	2	6.7
Three-fourths present -----	2	445.0	2	445.0	-	-
Three-fourths voting -----	5	288.9	3	282.1	2	6.7
Three-fourths in good standing -----	1	180.2	1	180.2	-	-
Requiring 60 percent vote -----	1	41.3	1	41.3	-	-
Size of vote differed with offense -----	¹ 2	8.8	1	8.0	1	.8
Other size of vote arrangement -----	² 1	152.4	1	152.4	-	-
Constitutions not specifying size of vote to expel -----	62	6,369.8	51	4,602.5	11	1,767.4

¹ Votes to expel varied with the offenses that had been committed.

² Different size votes were required according to composition of the trial body.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table IV-14. Size of Votes for Expulsion and Lesser Penalties in Local Union Trials,
National and International Union Constitutions, Early 1961

Size of votes stipulated for expulsion and lesser penalties	(Members in thousands)	
	Total studied	
	Unions	Members
All constitutions providing local union trial procedures -----	136	15,996.4
Total stipulating size of votes -----	76	9,922.3
Some size of vote for expulsion and lesser penalties -----	50	7,024.0
Majority present -----	18	2,479.9
Majority not defined -----	9	1,754.2
Majority eligible -----	4	1,120.7
Majority voting -----	4	411.5
Two-thirds present -----	7	741.7
Two-thirds voting -----	6	322.4
Other -----	¹ 2	193.7
Different size of votes for expulsion and lesser penalties -----	21	2,456.9
Size of vote stipulated only for expulsion -----	3	145.6
Size of vote stipulated only for lesser penalties -----	2	295.8
Total not stipulating size of votes -----	60	6,074.1

¹ Under 1 constitution the size of vote differed according to the composition of the trial body, but not according to the penalty; 1 constitution required a 60-percent vote of members present and voting for expulsion and lesser penalties.

NOTE: Because of rounding, sums of individual items may not equal totals.

Of the 71 unions that detailed size of vote requirements for both expulsion and lesser penalties, 50 set the same size vote regardless of punishment (table IV-14). Again, majority votes, found in 35 of the 50 constitutions, predominated. Twenty-one unions required a different number of votes for expulsion and lesser penalties, invariably stipulating the larger vote where expulsion was at issue.

Most of these constitutions specified the base to be used in computing votes. Least precise were 13 constitutions which simply called for a majority without indicating whether this "majority" was of members present, or members present and voting:

. . . The members of the local union there assembled shall vote, without debate, solely on the question of whether to reject the decision and the recommendations of the trial committee and a majority vote shall be final, subject only to appeal. (Sheet Metal Workers)

More often, however, the vote was to be based on the number of members in attendance at a meeting, as illustrated in the constitution of the Brick and Clay Workers:

All penalties upon any member of a local union shall be imposed by a majority of the members present at a regular meeting of the local union . . .

The Mailers (Ind.), among other unions, refined this decisionmaking group by including only those present and voting, thus eliminating those present but abstaining from voting:

It shall require three-fourths vote of members present and voting by secret ballot to suspend or expel.

In five unions—two where lesser penalties only were involved and three where expulsion was also at issue—a majority vote of those eligible to vote was to determine the penalty. In all situations the trial body was to consist of a specially selected committee or of a local union executive board, always involving a relatively small group.

Other constitutional provisions stipulating that the vote would be based solely on those casting a ballot, likewise limited the decision to a body smaller than total attendance:

The trial committee shall, if it finds the accused guilty, reprimand, fine, suspend or expel as it deems necessary according to the severity of the charges and report the case to the next membership meeting for approval . . . A majority of the members voting shall be necessary for approval. (Jewelry Workers)

* * *

. . . Such recommendations of the committee may be amended, rejected, or another punishment substituted therefor, at the will of the majority of the members voting on the question, except that it shall require a two-thirds vote of those voting to expel the accused from membership. (Die Sinkers, Ind.)

In contrast, the Oil, Chemical and Atomic Workers broadened the base by calling for a vote of all "members in good standing," presumably by means of a localwide referendum:

Neglect of duty or breaches of international or local constitutions, laws or rules by officers, or members, may be punished by reprimand or fine . . . at the will of a majority, or by suspension or expulsion at the will of three-fourths of the members in good standing of his local union . . .

The constitution of the Railroad Signalmen, Railway and Steamship Clerks, and Railroad Telegraphers, although differing slightly from each other, offered basically the same unique voting procedure. To expel a member, a two-thirds vote was necessary. If the required two-thirds vote was not achieved, then the votes for expulsion would be added to the votes for suspension in order to make the two-thirds vote necessary to suspend the guilty member or officer. If, however, the combined vote still failed to reach two-thirds, then no further ballots would be taken and the penalty automatically levied would be a reprimand.

The Plumbers union provided that the size of vote should vary according to the status of the guilty person. Lesser penalties involving members, for example, would require a majority vote, but to remove an officer a two-thirds vote would be necessary. The Iron Workers, on the other hand, provided that its vote requirement should vary according to the trial body, which was also the final decisionmaking body. If the executive board acted as the trial body, 5 of 7 members would have to approve the penalty, but where an ad hoc trial committee of 12 members was employed, 9 votes, or three-fourths of the trial committee would be necessary to impose sentence. The Marine Engineers' Beneficial Association and the Technical Engineers Association (Ind.) stipulated that the vote to expel should be varied according to the offense that had been committed. The MEBA, for example, could expel a member who wilfully neglected to provide for his dependents or who was a chronic drunk, by a three-fourths vote, but expulsion for any other offense would require only a two-thirds vote.

Recall of Local Union Officers. Only 15 of 136 national and international unions, having a combined membership of 1.2 million, provided for the removal of local union officers by means of a recall vote. In 11 of the 15 unions, local officers could also be removed as a result of disciplinary action taken by a local

trial body. In the other four unions, however, recall was the only procedure whereby members dissatisfied with the performance of a local officer might unseat him before the end of his term of office.

Most unions providing local union recall procedures were moderate or small in size. Two unions, in fact, represented fewer than 1,000 workers, and a third fewer than 2,000 workers. None of the unions had more than 36,000 members except the Operating Engineers, Railway Clerks, Transport Workers, and Communications Workers, all AFL-CIO affiliates and each with memberships in excess of 100,000.

As a general rule, recall of local union officers could be invoked for almost any reason. Ten of the 15 unions, for example, did not give reasons for which recall might be initiated, and the remaining 5 unions stipulated rather broad reasons. Practically all unions, however, required the recall petition specifically to state the reason for such action. Among the five unions listing reasons for recall, the Air Line Dispatchers and the Tobacco Workers declared, respectively, that recall might be initiated "with or without cause" or for "justifiable cause." The Lithographers (Ind.) permitted a recall petition in the event the officer infringed the provisions of the union's constitution and general laws or for conduct unbecoming a local officer. Under the constitution of the Railroad Yardmasters (AFL-CIO), failure or refusal to carry out constitutional or legal requirements was sufficient reason for recall of a local officer and under the Distillery Workers constitution, recall could be invoked when the local officer was unable properly to perform duties required by the constitution.

Nine unions stipulated that recall be initiated by petition, in writing, containing specific reasons for recall, and bearing the signatures of a specified proportion of the local union's membership. This proportion ranged from 10 percent of the local's membership (Lithographers, Ind.) to more than 50 percent (Railway Clerks). The Mailers' (Ind.) constitution, for example, included the following requirements:

The presentation of a petition to any member of the executive board of the local union signed by members in good standing totaling at least 40 percent of the number of votes cast for the office for which a recall is petitioned shall cause said union to submit the question of recall to a referendum vote of the membership.

The Distillery Workers permitted its local executive board to initiate recall by recommending that an office be voted vacant, and the international executive board of the Tobacco Workers could invoke local officer recall in the same manner.

Only five unions identified the person or body charged with carrying out the recall procedures. Generally, this was the recording officer, or secretary-treasurer, or president. Two of the five unions offered alternatives in case the usual administering officer was the person whose recall was petitioned. The Railway Clerks, for example, designated the Board of Trustees to act in such circumstances, as follows:

Rule 3. The recording secretary shall . . . certify whether the petition is signed by the requisite number of qualified members . . . He shall transmit the petition together with certification to the president of the lodge and shall furnish a copy thereof to the officer sought to be recalled.

Rule 4. The president of the lodge . . . shall appoint a committee of 3 members to prepare and supervise the distribution of the ballot, tabulate the result and report name to the lodge.

Rule 5. If the petition involves the president or the recording secretary, the procedures indicated above shall be conducted by the board of trustees.

Only the Airline Pilots directed the international union to administer the recall procedures.

As a general rule, two or more meetings were designated for the recall process. The first meeting was to be devoted to preliminary details, and was also to serve to notify all participants of the impending action. The second meeting was usually to include debate, and, in many cases, the recall balloting. The Operating Engineers employed the following procedure:

Whenever 25 percent of the members in good standing in a local union shall file with the recording corresponding secretary a petition requesting the recall from office of any officer of the local union . . . within 30 days thereafter a special meeting of the local union shall have been called and held with all petitioners present thereat, which special meeting shall have been devoted to verifying the signatures of all petitioners to said recall petition and certifying by the financial secretary of the good standing of each petitioner, then and not otherwise the recording corresponding secretary shall notify all members in good standing of . . . the date set for the voting upon recall (which date shall be the third regular meeting following the mailing of such notice) and a vote thereon shall be taken at such meeting.

Only the Broadcast Employees authorized the local executive board to hold hearings and make recommendations. These recommendations, however, were purely advisory, not in the nature of a decision by a trial body to be ratified by the membership.

One constitution, that of the Railway Clerks, allowed the accused officer to file a statement answering the charges cited in the petition. No constitution changed the status of the officer pending outcome of the recall referendum, except that the constitution of the Communications Workers permitted suspension of officers where the charges included criminal acts.

Four unions required secret recall balloting. The constitutions of three of these unions provided for voting by mail, while the fourth constitution, that of the Operating Engineers, provided for voting on recall by secret ballot at the membership meeting. Three tellers, one appointed by the petitioner, one by the local's president, and one elected by the members, were authorized to conduct the vote and tabulate the results.

Eleven of 15 unions stipulated the size of vote necessary to recall, five required majority votes, and 6 called for two-thirds votes. Of the five majority votes, two specified a majority of the full local membership and two of those voting. The fifth stipulated that two-thirds of all eligible members were required to vote, and only if a majority voted for recall could the local officer be removed. Of the six unions calling for two-thirds votes, two stipulated that the two-thirds vote referred to the full membership, two to those members present at the recall meeting, and one to those voting. The sixth required that to remove the local officer at least a majority of the number of members who had voted for the officers at the time of their election had to participate in the balloting, and that the vote for recall must be by two-thirds of those voting.

Chapter V. Trial Procedures of Local Union Officers and Members at the International Union Level

This chapter, describing trial procedures at the international union level, is, in the main, organized along the same lines as the preceding chapter dealing with trials at the local union level. Aspects which are unique to proceedings at the international union level, notably matters of exclusive or concurrent jurisdiction, are discussed and illustrated in detail.

Prevalence of Provisions

Of the 158 constitutions examined, 116 provided for trial of members or local union officers at the international union level (table V-1) as compared with 42 providing for trial at the local level. Under 10 constitutions, the international union was the only body authorized to conduct disciplinary proceedings.

Table V-1. Trial of Members¹ and Local Officers at the International Level,
National and International Union Constitutions, Early 1961

Trial provision	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions studied -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing for trial at the international level -----	116	13,515.0	92	10,970.1	24	2,544.9
Local members and officers -----	93	12,377.9	73	9,861.2	20	2,516.7
Identical trial procedure -----	83	11,231.7	64	8,741.5	19	2,490.2
Different trial procedure -----	10	1,146.3	9	1,119.8	1	26.5
Local officers -----	21	1,011.4	17	983.2	4	28.2
Local members -----	2	125.6	2	125.6	-	-
Constitutions not providing provisions for international trials -----	42	3,408.1	30	3,258.7	12	149.4

¹ The term "members" included any member of a local union but not "members-at-large" or other members affiliated directly with the international union. 2 constitutions, accounting for 261,800 members, providing for trial of directly affiliated members only, were not included in this analysis of international trial provisions.

NOTE: Because of rounding, sums of individual items may not equal totals.

All but 2 of the 42 constitutions without provision for trial at the international level provided for trial by local unions. Moreover, even though these 42 constitutions contained no explicit provision for trying members and officers of local unions at the international level, jurisdiction might be invoked, under broad provisions clothing the international officers with general authority to administer and conduct the affairs of the union or to interpret and decide all questions of union law. For instance, the Flight Engineers' constitution vested "supreme governmental powers" in its Master Executive Committee and left open a

possibility of disciplinary hearings by providing that "there shall be no restriction on business conducted at any meeting of the committee."²⁵

While local trial procedures were invoked only by filing charges, two routes were provided for invoking international jurisdiction. Under 115 of the 116 international trial provisions, jurisdiction could be based on charges if filed directly at the international level. Under the remaining constitution, and under 28 of these 115, jurisdiction could be assumed by the international over charges that had been filed at the local level (table V-2).²⁶ The authority to divest the local union of jurisdiction and transfer the case to an international trial body was often limited to emergencies, a particular offense, or situations marked by a local's inability to afford the accused a fair trial.

Table V-2. Extent of International Trial Jurisdiction, National and International Union Constitutions, Early 1961

Trial jurisdiction	(Members in thousands)		Affiliation			
	Total Studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
Constitutions providing for trial at the international level -----	116	13,515.0	92	10,970.1	24	2,544.9
Constitutions providing jurisdiction over new cases -----	87	8,125.8	68	7,242.5	19	883.3
Local members and officers -----	65	7,008.7	50	6,153.7	15	855.0
Local officers -----	20	991.4	16	963.2	4	28.2
Local members -----	2	125.6	2	125.6	-	-
Constitutions providing jurisdiction over new and pending cases -----	28	5,356.3	23	3,694.6	5	1,661.7
Local members or officers -----	27	5,336.3	22	3,674.6	5	1,661.7
Local officers -----	1	20.0	1	20.0	-	-
Constitutions providing jurisdiction over pending cases -----	1	33.0	1	33.0	-	-
Local members and officers -----	1	33.0	1	33.0	-	-

NOTE: Because of rounding, sums of individual items may not equal totals.

Persons Subject to Trial

Of the 116 provisions for trial at the international level, 93 applied to both members and local officers (table V-1), usually with identical procedural provisions. International trial procedures were usually less detailed than

²⁵ Two of these 42 constitutions limited trial provisions to members who were not affiliated with a local union but who were attached directly to the international union (table V-1, footnote 1). Provisions applicable to members-at-large were not included in this analysis.

²⁶ For purposes of this study, provisions for filing charges directly at the international level were described as provisions for jurisdiction over "new" cases, while provisions for transferring a case from the local to the international level were described as providing for jurisdiction over "pending" local union cases.

those governing local union trials, although several constitutions provided the same extensive procedural provisions for trials at both levels. A few constitutions merely vested general disciplinary authority in an international agency without specifying procedural requirements, as in the following provision:

The general executive board may exercise original jurisdiction to try international union officers, subordinate bodies, officers of subordinate bodies, and individual union members for any conduct subject to disciplinary action. (Bakery and Confectionery Workers' International Union of America, Ind.)

Under 10 constitutions, the trial procedures for officers and for members differed somewhat. These constitutions contained special provisions for disciplining officers charged with misconduct in the performance of their duties, closely related to the international's supervisory responsibilities over local union affairs. For instance, under the constitution of the Stone Cutters Association, the following provision applied to officers:

The president shall have the authority, should he be satisfied that any officer is derelict in the performance of his duty or has been guilty of a dishonest act, to suspend such officer from his official position. In such event, he shall furnish the officer so suspended with a detailed statement of his reasons for so doing, and he shall also forward to the executive board a similar detailed statement, who shall thereupon try such suspended official in accordance with the laws governing impeachment and trial of officers. If found guilty, he shall at once be removed from office by the president.

With regard to members, the executive board was empowered to initiate charges under the following limited circumstances:

Anyone who goes to a local where there is trouble, in order that he may be placed on the strike roll, shall be immediately exposed in the journal, and charges preferred against him by the (executive board) . . .

Extent of International Jurisdiction

In all but 1 of the 116 international trial provisions studied, the international union was empowered to exercise jurisdiction in new cases, that is, those not pending at the local union level (table V-2). Under the remaining constitution, all charges were filed with a local union, but the president possessed the authority, as illustrated in the following clause, to transfer the case to the international level:

. . . In the event charges are preferred against any member or officer of a local union and the general president, in his discretion, deems it proper to do so, he may order that the trial of such member or officer be had before the executive board of the international in lieu of the executive board of the local or any trial committee of such local. (Distillery, Rectifying and Wine Workers' International Union of America)

Eighty-seven of the constitutions providing for international jurisdiction over new cases did not explicitly permit transfer of pending local cases to the international level. These included 65 of the 93 constitutions with provisions applicable to both members and officers, all but 1 of the 21 applicable to officers only, and the 2 which covered members only. Only 28 constitutions, covering, however, more than 5 million members, granted jurisdiction over both new and pending cases. Under these constitutions, jurisdiction over new cases was invoked

by filing charges at the international level, while jurisdiction over pending cases was invoked by transferring charges already filed with a local union to the international level, typically in the following manner:

The executive board shall have the right, by notice in writing to such (local) recording secretary to assume jurisdiction of any such charges and, in that event, no action upon such charges shall thereafter be taken by the local union with which they were filed, but all further proceedings shall be taken by the executive board in the same manner as though charges had originally been filed with it. (Independent Watchmen's Association, Ind.)

Jurisdiction over new cases usually extended to include all offenses against the international union, such as "violation or infractions of the provisions of the constitution," or any matter "inimical to the best interests" of the union. In effect, these general jurisdictional provisions vested complete disciplinary authority in an international body. The following provision was one of the most explicit in describing the scope of general jurisdiction:

The executive board shall have entire control over all judicial business of the international union when not in session, viz . . . ; all decisions as to the laws or usages of the international union or of subordinate unions; all charges or disputes of one member against another or his union; and all charges or disputes of one union against another; all questions as to the law raised or reported by deputies—in fact, all questions relative to the laws of the international union or subordinate unions and violations thereof. (Bricklayers, Masons and Plasterers' International Union of America)

This general jurisdiction usually was broad enough to extend even to cases which could be the subject of charges at the local level. One constitution explicitly provided concurrent jurisdiction as follows:

When a member violates the international laws by interfering with the workings of the international executive board in carrying out the laws, the board shall have full authority to mete out the same punishment to them that a local union has and the member has the same right to appeal that he has from the decision of a local union. (Metal Polishers, Buffers, Platers and Helpers International Union)

A few constitutions, however, specified exclusive jurisdiction at the international level. For instance, the American Flint Glass Workers' constitution required the president to review all charges and retain jurisdiction of those charges involving the international union:

It shall be the duty of the international president to refer all charges against individuals to local unions for trial except those which involve the international constitution or policies of and the security of the international organization.

Limitations on New Cases. In 80 of the 115 provisions permitting jurisdiction over new cases, the international's jurisdiction included any offense against the international union. Under 21 of the other 35 constitutions, covering more than 2 million members, only charges alleging particular offenses were to be accepted at the international level. Several of these offenses were related to the performance of official duties by a local union officer and were designated for trial by

international agencies exclusively. For example, one constitution authorized jurisdiction in new cases in the following clause:

. . . (the president) shall have authority, should he become satisfied that any officer is derelict in the performance of any duty, or has been guilty of any dishonest act, to suspend such officer from his official position. In such event, he shall furnish the officer so suspended with a detailed statement of his reasons for so doing. The executive board shall try such suspended officer upon the charges presented by the president. (International Stereotypers' and Electrotypers' Union of North America)

Included among the 35 constitutions were 6, covering more than 600,000 members, which permitted international jurisdiction only in cases that "vitaly affected" the international union or presented an immediate threat to the union's welfare, as for example, in the United Rubber Workers' constitution:

The international executive board will entertain and determine charges pursuant to this paragraph in the exercise of its judicial powers only in those rare and unusual cases where the general welfare of the URW is involved.

The remaining eight constitutions in this category specified more than one grant of jurisdictional authority. These constitutions, covering nearly 2 million members, permitted charges to be filed with the international in any of a number of defined situations, such as an emergency, or for specified offenses. Cumulatively, these limited grants provided a broad jurisdictional basis for disciplinary action, as can be seen from the following provision:

In cases of extreme emergency and when it appears . . . that irreparable injury may result to the international union . . . , and, without regard to the existence of a present emergency, in any case in which it shall appear to the board that 2 or more members have engaged . . . in conspiracy to commit an offense against the union . . .

Whenever it is charged that any member is affirmatively engaged in the promotion, implementation, furtherance, or support of any other union or collective bargaining group . . . such charge will be filed with the international executive board. (United Automobile, Aerospace and Agricultural Implement Workers of America)

Limitations on Pending Cases. Cases that were already pending before a local body were less frequently subject to international jurisdiction. Of the 29 constitutions providing for jurisdiction over pending cases, 9, covering almost 900,000 members, granted authority for international jurisdiction over any offense against the international union, while 20 constitutions limited this authority, typically to emergency situations of the type stipulated in the following clause:

In all cases involving charges which in the opinion of the . . . (president) . . . vitaly affected the best interests of the local union or the international union, the . . . (president) . . . may order the . . . (executive board) . . . to take original jurisdiction of the case and to proceed to hear and try the accused. The . . . (president) . . . shall have this authority at any point in the proceedings and this authority shall exist even though the trial committee of the local union has commenced and has conducted a hearing. (Metal Polishers, Buffers, Platers and Helpers International Union)

Eight of these 20 unions limited jurisdiction over pending cases to failure of the local union either to prosecute or to punish a member convicted of offenses against the international union:

In the event that any local union or the members thereof fail to proceed under the provisions of this section, or fail to refuse to punish members thereof who are guilty . . . (Tobacco Workers International Union)

Under two constitutions, international jurisdiction could be invoked if bias, hostility, or fear of reprisals would interfere with the local's ability to provide a full and fair hearing, with either the accused or accuser permitted to petition for a change of venue. In the Newspaper Guild, the international agency granting the request was authorized to appoint a special committee, composed of members of neighboring local unions, as follows:

Where the . . . (executive board) . . . is convinced, after receipt of a petition from either the accused member or from those filing charges, that a fair trial is impossible in the accused member's local, because of partiality, hostility, or fear of reprisals, the (executive board) may order trial before a trial board to be selected from a trial panel of members of one or more nearby locals.

The other constitution provided for trial by the union convention under the following circumstances:

The president of the . . . (local union) . . . with whom charges are filed shall . . . proceed to bring the accused to trial . . ., except that the . . . (president) . . . may, when he deems such action necessary in order to provide a fair trial or to protect the best interests of the IAM, direct that the accused be tried either by a special committee designated for that purpose or by the G.L. Convention. (International Association of Machinists)

Under two other constitutions, separate grants of power over local union cases were given to the executive board and to the international president, with the latter's authority limited to designated situations. The Teamsters' (Ind.) constitution delineated this as follows:

Notwithstanding any other provision of this constitution, the general executive board shall have jurisdiction . . . for all offenses committed against the officers of . . . or the international organization. In the event charges have been filed or hearings are pending . . . the jurisdiction of such subordinate body shall forthwith terminate.

If the local union executive board . . . is satisfied by the evidence presented that the individual is a member of the Communist Party or of any other subversive organization, or subscribes or lends support to their doctrines, the local union executive board shall expel such individual after he has obtained a proper trial.

If, in the opinion of the general president, the above section has not been complied with in principle and intent . . ., he . . . shall be empowered to reopen and review the case and, if he deems it advisable, . . . transfer the case to the general executive board . . .

Whenever charges involving a member . . . officer or . . . subordinate body create, involve, or relate to a situation imminently dangerous to the welfare of a . . . subordinate body, the general president is empowered, in his discretion, to assume original jurisdiction regardless of the fact that charges have been filed with another subordinate body and are pending . . .

Invoking International Jurisdiction—Persons Authorized to Initiate. Although 95 trial provisions specifically identified persons authorized to file charges at the international level (table V-3), few constitutions specified that the persons

Table V-3. Persons Specifically Authorized to Invoke International Jurisdiction, National and International Union Constitutions, Early 1961

Identity of persons	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for trial at the international level -----	116	13,515.0	92	10,970.1	24	2,544.9
Constitutions specifically authorizing certain persons to invoke international jurisdiction ----	95	12,252.4	80	10,360.6	15	1,891.9
Constitutions specifying international authorities -----	52	7,655.7	44	7,257.6	8	398.1
President -----	27	4,352.6	25	4,226.4	2	126.2
Executive board ¹ -----	14	2,372.8	10	2,117.7	4	255.1
President or executive board -----	11	930.3	9	913.5	2	16.8
Constitutions specifying international and local union authorities -----	29	4,070.7	25	2,644.9	4	1,425.8
President, executive board, or local officers -----	12	2,268.3	9	843.5	3	1,424.8
Executive board, or local officers, or members -----	5	569.4	5	569.4	-	-
President, or local officers, or members---	3	1,073.6	3	1,073.6	-	-
President, executive board, local body, or local officers, or members -----	4	126.3	4	126.3	-	-
Other -----	2	33.1	4	32.1	1	1.0
Constitutions specifying local union authorities -----	14	526.0	11	458.0	3	68.0
Local officer, or member -----	12	466.0	11	458.0	1	8.0
Other -----	3	60.0	-	-	2	60.0
Constitutions without identity provisions -----	21	1,262.6	12	609.5	9	653.1

¹ The phrase "executive board" also included other governing bodies, such as boards of directors and boards of trustees.

² Under 3 constitutions, the president, executive board, or a local body could invoke jurisdiction; and under 2 constitutions elected international officers or local bodies could invoke jurisdiction.

³ Under 1 constitution, a local body or members or officers could invoke jurisdiction; and under 1 constitution, a local body by petition of 20 percent of its membership could invoke jurisdiction.

NOTE: Because of rounding, sums of individual items may not equal totals.

listed were the only ones who could avail themselves of this right. In many of these constitutions, specific persons were designated to invoke jurisdiction for particular offenses, but for other offenses no person was named. For instance, the United Automobile Workers' constitution authorized the executive board to file charges in extreme emergencies or in conspiracies, but did not designate a filing agent for charges of dual unionism.

Constitutions without any reference to the identity of the initiator frequently contained provisions similar to the one cited below:

When the executive board makes a decision or issues an order . . . and such local union or subordinate body or the officers thereof fail, neglect, or refuse to conform or comply with the decision or order, the charter of the local union or other subordinate body may, after complaint and hearing, be revoked or suspended, and said officers may be fined or expelled by the executive board. (Stove Mounters' International Union of North America)

In more than half (52) of the provisions identifying the persons authorized to invoke international jurisdiction, only international authorities, usually the president, were specifically so designated (table V-3). The president was often authorized to exercise this power through agents, particularly in cases involving the supervision of local union affairs. For example, under the Brick and Clay Workers' constitution, a special trustee appointed by the president was to perform the following functions:

After the special trustee has taken charge or control of a subordinate body, he shall make an investigation of its business affairs, finances, assets and liabilities and make complaint to the executive council against any member or former officer . . . (for) . . . any act of corruption or financial malpractice or of any violation of law or this constitution . . .

The executive board's procedure for determining whether to initiate proceedings was rarely specified. Usually, the board's authority was based on a general provision for disciplinary action, as in the following clause:

The executive board, upon notice given it of any executive matter in any manner or from any source that any . . . officer or member . . . has failed or neglected to comply with the laws of this international union or its rules or orders or the rules or orders of the executive board . . . shall immediately cause notice of said complaint to be given to the . . . officer or member . . . so charged . . . (Bricklayers, Masons and Plasterers' International Union of America)

Under 29 constitutions, the authority to invoke international jurisdiction was vested in persons at both the international and local levels. Usually, only officers were designated, but a few also extended this authority to members of the local union. Most of these constitutions specified different initiators for different offenses. International officers possessed this authority for any violation of the international constitution and for actions which required the use of official powers, such as suspending before or after charges were filed, ordering a pending local union case transferred to the international level, or declaring that a situation presented an immediate threat to the welfare of the union. Local union officers or members were commonly permitted to file charges for any violation of the international constitution or for failure of the local union to hold a hearing. For instance, the Painters' constitution granted the executive board the following authority to initiate disciplinary proceedings:

In any case over which a subordinate body has jurisdiction, if such charges are also violations of this constitution, the general executive board shall have the authority to exercise original jurisdiction.

It specifically referred to a member's or officer's authority to file charges at the international level in the following situation:

(In the case of) any local union refusing to try its members on charges properly preferred . . . the party preferring the charges may then bring the charge before . . . (the general executive board) . . .

Under 14 constitutions, only persons at the local union level were specifically authorized to invoke international jurisdiction. These provisions usually permitted "any member" to file charges. Local officers were included within this term by definition although the term might also include international officers who were not explicitly excluded. The following provision was typical:

Proceedings under this article may be initiated by any member of the ILA by filing written charges, specifying the acts or conduct with which the accused is charged, with the recording secretary of the appropriate local union or district council or district organization or with the international secretary-treasurer as the case may be. (International Longshoremen's Association)

Only a few constitutions explicitly restricted the persons who could file charges directly with an international agency. Usually, such constitutions enumerated all persons who might wish to file charges, as in the following provision:

A charge or charges may be preferred against any member by resolution of: Local councils, executive councils, boards of directors; or by local council chairmen, executive council chairmen, or by any elected officer of the association. (Air Line Dispatchers Association)

The constitution of the Marine Engineers' Beneficial Association, in specifying who could file charges, included the following provision for endorsement of charges:

Charges . . . may be filed by a national full time elected officer or any three members of the national executive committee or by a 10 per cent vote of the members in good standing of said subordinate association.

Provision for Charges—Form of Charges. Of the 116 international trial provisions, 100 specifically required charges to be filed as a first step in invoking international trial jurisdiction (table V-4). Only 19 of these provisions failed to

Table V-4. Form of Charges in International Level Trial Proceedings, National and International Union Constitutions, Early 1961

Form of charges	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for trial at the international level -----	116	13,515.0	92	10,970.1	24	2,544.9
Constitutions stipulating form of charges -----	81	9,914.7	67	8,318.9	14	1,595.8
Written and specific -----	48	6,090.3	42	4,532.5	6	1,557.8
Specify nature of offense -----	20	3,910.9	16	2,412.4	4	1,498.5
Specify nature of offense, and rule or constitutional provision violated -----	13	807.1	12	803.8	1	3.3
Other written and specific forms -----	¹ 4	280.0	4	280.0	-	-
No reference to details to be specified ----	11	1,092.3	10	1,036.3	1	56.0
Written only -----	33	3,824.5	25	3,786.5	8	38.0
Constitutions requiring charges without stipulating form of charges -----	19	1,711.2	15	1,021.2	4	690.0
Constitutions not stipulating form of charges ----	16	1,889.1	10	1,629.9	6	259.1

¹ Under 1 constitution, charges contained a general statement of the offense and the particular rule violated; under 1 constitution, charges were in the form of an "order to show cause why an officer should not be removed" and specified the nature and facts of the offense; under 1 constitution, charges were in the form of "information" and "substantiated by written testimony;" and under 1 constitution, charges against local officers were "written and specific" but charges against members specified the particular rule allegedly violated.

NOTE: Because of rounding, sums of individual items may not equal totals.

stipulate the form of the charges, typically limiting themselves to brief references similar to the one noted in the constitution of the Aluminum Workers:

The accused shall be given a reasonable notice of the charges . . .

The constitution of the United Mine Workers (Ind.) also referred to charges but did not define their characteristics:

When any officer . . . or member is charged with fomenting, leading, or encouraging a dual union, or dual movement within the organization, upon charges being filed with the international executive board, . . . a hearing of said charges shall be had.

Eighty-one constitutions, covering approximately 7 of every 10 members, described the form for charges in degrees of detail ranging from simple statements that charges be "in writing" to elaborate requirements that the charges state the facts of the offense, including times and dates, and cite the particular article, section, and paragraph of the constitution allegedly violated. Under 48 constitutions, charges must be written and specific. A few of these constitutions contained language similar to that in the Labor-Management Reporting and Disclosure Act's section 101 (a) (5) (A), as in the following clause:

No member of the organization may be fined, suspended, expelled, or otherwise disciplined, except for nonpayment of dues, by the organization, or by any officer thereof, unless such member has been (i) served with written specific charges . . . (emphasis added) (International Organization of Masters, Mates and Pilots)

More often, these provisions required charges to specify certain items. Several required a statement of the general nature of the offense or violation, for example:

No member or officer of a local union shall be tried unless he or she shall be served with a written copy of such charges specifying the nature of the offense of which he or she is accused. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind.)

More specific provisions called for a statement of the facts alleged to constitute an offense. In addition to particular actions, places or dates were often required, as in the Communications Workers' constitution:

Charges shall contain an allegation of the facts constituting the offense with which the accused is charged and the approximate date or dates said offense is alleged to have occurred.

The most specific provisions required a citation of the particular constitutional provision allegedly violated in addition to a statement of the facts. Typically, these provisions were similar to the following excerpt:

The charge shall state the provisions of the ANG constitution alleged to have been violated and shall specify the act or acts alleged to constitute such violation. (American Newspaper Guild)

Additional details were required by the constitution of the American Train Dispatchers Association:

(a) All charges shall: (1) Be in writing; (2) be signed by the party preferring the same; (3) contain a statement of the facts out of which such charges originated; (4) refer to the article, section, and paragraph of this constitution, the established policies, decisions, laws, rules, or regulations which it is alleged have been, or are being violated; and (5) state the nature of the violation claimed.

The most common provision (33) for the form of charges merely required charges to be written. Most frequently, these provisions required charges but did not describe the form except for the additional words "written" or "in writing," as in the following constitution:

Charges shall be filed in duplicate, in writing, with the secretary-treasurer of the international union. (International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America)

Safeguards Relating to True Charges. Of the 100 constitutions specifically requiring charges, 40 provided a safeguard to assure true charges (table V-5). These provisions were less prevalent at the international than at the local level. While any member of the union was usually authorized to file charges at the local union level, in many cases officers only were permitted to initiate proceedings at the international level. Under the provisions, these elected officials were seldom to be required to swear that charges were not filed out of personal malice towards the accused, nor were these officials to be subject to penalties if the charges proved to be unfounded.

Table V-5. Safeguards Relating to Charges at the International Level, National and International Union Constitutions, Early 1961

Safeguards	Total unions	Form of charges		
		Written and specific	Written only	Form of charges not stipulated
All constitutions providing for charges in international level trial procedures -----	100	48	33	19
Constitutions providing safeguards -----	40	26	12	2
Accusers were subject to penalties for filing false charges -----	16	8	6	2
Charges must be signed and accusers subject to penalties for filing false charges -----	10	10	-	-
Charges must be signed -----	7	2	5	-
Charges must be signed and sworn or notarized -----	2	2	-	-
Other safeguards -----	5	4	1	-
Constitutions not providing safeguards -----	60	22	21	17

¹ Under 1 constitution, all charges must be signed and sworn in cases involving local officers; under 1 constitution, all charges must be signed and accusers were subject to penalties if charges against local officers proved to be false; under 1 constitution, all charges must be sworn and charges alleging subversive activity must be signed by an international officer; under 1 constitution, charges filed by the executive board must be approved by two-thirds of its members; and under 1 constitution, accusers were subject to penalties if charges against local officers proved to be false.

Safeguard provisions were recorded more often in constitutions which also required specific charges than in constitutions without such requirements. More than half of the constitutions providing for "written and specific" charges had safeguard provisions, but only a little more than one-third of the provisions for "written" charges and only one-tenth of the provisions not stipulating the form of charges included specific safeguards.

Safeguards were designed to encourage the accuser to file true charges by providing penalties if the charges were proven to have been falsely filed because of malice or bad faith. These penalties, including fine, suspension, or

expulsion, were usually to be imposed after trial proceedings. Filing false charges was a separate ground for discipline after trial in the American Newspaper Guild's constitution:

The following acts are offenses for which members may be disciplined.

. . . (n) Maliciously and frivolously filing charges against a member, local officer, district officer, international officer, or local, provided that such charge may be filed only after dismissal of the charge alleged to have been maliciously and frivolously filed.

Under a few constitutions, however, a formal hearing was not explicitly required, as in the following:

Charges Not Preferred in Good Faith

If charges are preferred and such charges are not sustained and the trial body or appellate body is convinced that the same were not brought in good faith or were actuated by malice, the trial body or appellate body may impose such penalty by the way of punishment as in its judgment is deemed proper under the circumstances. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind.)

Under the 19 constitutions requiring signed charges, only one signature was most frequently required. Where more than one signature was required, two persons' signatures were usually adequate. Occasionally charges were to be signed by a certain percentage of local union members, as in the following provision:

Upon the presentation to the international president of a petition requesting the international to investigate the affairs of any local, stating the reasons for such request and signed by 20 percent of the membership in good standing of the local involved . . . (International Longshoremen's and Warehousemen's Union, Ind.)

Provisions for Preliminary Reviewing of Charges. Only 14 of the 100 constitutions providing for charges, covering less than a million members, provided for a preliminary review of charges (table V-6). In a few of these constitutions, the review agent was also designated as the trial body. In most cases, however, reviews were to be conducted by an agent other than the trial body.

Usually, the scope of preliminary review was to be confined to determining whether a violation was alleged, as in the following provision:

If probable cause for trial does not appear to the president from the face of the charges, the charges shall be dismissed in a president's decision which shall be subject to section 13 (Appeal) of this article. (American Federation of Grain Millers)

Occasionally, however, this review was also to determine whether charges should be tried at the local or international level. The Upholsterers' constitution, for example, required the president to determine the following:

(i) If violations of union laws or policies are involved as alleged;
(ii) if the charges are such as shall be filed with the international office, and if they are not, (he) shall return them to the accuser with instructions to file them with the local union involved . . .

Table V-6. Preliminary Review of Charges in International Trial Procedures,
National and International Union Constitutions, Early 1961

Type of provisions	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for charges in international level trial procedures -----	100	11, 626.0	82	9, 340.1	18	2, 285.8
Constitutions providing for a preliminary review of charges -----	14	989.0	13	985.0	1	4.0
International president or general executive board could dismiss charges -----	11	950.6	11	950.6	-	-
Local officers reviewed and could refuse to forward charges to the international level---	2	8.0	1	4.0	1	4.0
International president reviewed charges involving a request for change of venue ----	1	30.4	1	30.4	-	-
Constitutions not providing for preliminary review of charges -----	86	10, 637.0	69	8, 355.1	17	2, 281.8

NOTE: Because of rounding, sums of individual items may not equal totals.

Under two constitutions, local authorities were to review charges before they were forwarded to the international union and were to be permitted to exercise discretion in deciding whether to forward the charges. One of these provisions read as follows:

Charges must be submitted . . . to the chairman of the general grievance committee of the system with which the accused is connected. The chairman . . . will prosecute such investigation as he deems necessary to arrive at the facts in the case, and if in his judgment the charges are sufficiently grave and can be sustained, he will report his findings to the grand president . . . (Railroad Yardmasters of America)

Under the remaining 12 constitutions, review powers were vested in an international officer.

Preliminary reviews often were designed to test only the formal sufficiency of the allegations contained in the charges, but some constitutions also authorized an independent investigation of the facts, as in the above-quoted Railroad Yardmaster's constitution. These investigations were usually to be conducted by persons located near the place where the alleged acts occurred. The investigator was then to submit the findings of fact and his recommendations to the president for a determination of the merits.

The general chairman shall make an investigation to determine all available facts. After such investigation, he shall report . . . to the president with all data and documentary evidence and his recommendations . . . If the president decides that a trial should be held, he shall order the accused to be tried . . . (American Train Dispatchers Association)

If charges were dismissed, one or, in a few cases, two avenues of appeal were open to the accuser. Eleven of the 14 preliminary review provisions granted the accuser general appeal rights by permitting "any interested

party" to appeal an adverse decision. Three of these 11 constitutions also specifically authorized appeal of a preliminary review body's decision. The American Newspaper Guild's constitution stated that "the accusers shall have the right to appeal from a refusal or failure of the executive committee to refer a charge to a trial board." The Grain Millers' constitution permitted "any local union, officer, or member adversely affected thereby" to appeal from a president's decision dismissing charges; and the Upholsterers' constitution provided for appeal as follows:

If the international president determines that no violation of union laws or policies is involved, he may dismiss the charges, in which event the accuser, if not satisfied with the action of the international president, may appeal to the GEB for reinstatement of the charges.

Compositions and Powers of Trial Authority

Each of the 116 constitutions studied specified the identity of the body authorized to conduct trials at the international level (table V-7), usually the executive board. Only eight international trial provisions vested disciplinary powers in bodies that did not have other administrative duties. These permitted the accused and accuser to appoint an equal number of persons to a trial board or provided for trial before special or permanent judicial committees.

Table V-7. International Trial Authority, National and International Union Constitutions, Early 1961

Trial authority	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for trial at the international level -----	116	13,515.0	92	10,970.1	24	2,544.9
Constitutions providing 1 trial authority for all cases -----	91	9,406.2	71	8,301.1	20	1,105.1
Executive board ¹ -----	63	5,719.7	47	4,770.7	16	949.0
President -----	20	2,806.3	18	2,680.1	2	126.2
Special committees -----	4	773.9	4	773.9	-	-
Selected by the parties -----	2	38.3	1	35.0	1	3.3
Convention -----	2	67.9	1	41.3	1	26.5
Constitutions providing 2 or more trial authorities -----	25	4,108.8	21	2,669.0	4	1,439.8
Executive board for most cases; president for specified cases -----	14	2,728.8	12	1,298.0	2	1,430.8
President for most cases; executive board for specified cases -----	3	148.6	3	148.6	-	-
Executive board for most cases; convention for specified cases -----	3	31.5	1	22.5	2	9.0
President, executive board, and convention enjoyed equal trial authority -----	2	27.7	2	27.7	-	-
Other authorities -----	23	1,172.1	3	1,172.1	-	-

¹ The phrase "executive board" includes other governing bodies, such as board of directors and board of trustees.

² Under 1 constitution, the president tried the case himself or in his discretion referred the case to the convention; under 1 constitution, the accused chose between trial by executive board and trial by special committee; and under 1 constitution, executive board and special committee possessed original trial jurisdiction.

NOTE: Because of rounding, sums of individual items may not equal totals.

Trial Body. Sixty-three of the 91 provisions specifying a single trial authority for all cases, covering nearly 2 of every 3 members, vested judicial authority in the union's executive board. Typically, trials were to be held before the whole board or committees of the board. Several provisions, however, permitted the board to delegate its authority to conduct hearings, in which case the board reserved the power to render a decision:

Whenever the general executive board has jurisdiction to try and hear any matter, it may deputize any member or officer of the international union to conduct the trial or hearing on its behalf. However, the person so deputized shall, at the conclusion of the trial or hearing, report to the general executive board, in writing, and the decision in the matter shall be made by the general executive board. (Bakery and Confectionery Workers' International Union of America, Ind.)

A smaller number of constitutions (20) covering just under 3 million members, vested trial authority in the union president. A few of these constitutions, while describing at some length the extent of disciplinary powers, were not equally full regarding procedural aspects and details of the trial. For example, in the Railway and Steamship Clerks' constitution, the president's authority encompassed the following:

. . . (the president) . . . shall have power to suspend, expel, or otherwise discipline a member, but only after serving . . . written charges stating the grounds therefor and affording the member reasonable time to prepare his defense and a full and fair hearing. The grand president shall render his decision within 30 days after completion of the hearing . . .

Other constitutions specified the methods by which the president exercised his trial authority. In some, he was permitted to delegate this authority to others while retaining final decisionmaking powers:

In the matter of the trial of members or officers of local unions or joint councils by the general president, he may deputize a representative to act on his behalf. Such representative shall have the same powers as the general president respecting the trial . . . However, when a trial shall be conducted by a representative of the general president such representative shall make his recommendation to the general president orally or in writing and the decision in the case shall be made by the general president himself. (Laundry, Dry Cleaning and Dye House Workers' International Union, Ind.)

Authorization for the president's choice of deputies was nearly always confined to members or officers of the union. In two constitutions, however, the president was permitted to go outside the union in selecting hearing officers. In the constitution of the American Federation of Grain Millers, it was provided that:

Whenever in his judgment the facts and circumstances of any case . . . necessitate more formal and comprehensive hearing and deliberation than is contemplated by all the trial procedures set forth herein, the president, with the consent of the general executive board, may appoint a special hearing officer to hear and decide the charges. The special hearing officer need not be a member of the . . . (union) . . . and may be vested with all or part of the judicial powers by this constitution conferred upon a local union trial board, a local union, an international trial board and the general executive board. The extent of the powers and jurisdiction of such special hearing officer and the terms and conditions

under which the hearing shall be conducted shall be described in an appropriate resolution of the general executive board, but no such resolution shall ever have the effect of depriving directly interested members of the right to appeal a decision of a special hearing officer to the next regular convention . . .

The Upholsterers' provision, read by itself, was not as explicit. It stated:

Any qualified person competent to conduct such a hearing may be appointed a hearing officer by the international president.

The intent of this provision, however, is to provide for outside hearing officers.²⁷

Eight of these 91 constitutions vested trial authority in bodies other than the president or general executive board. In two, the trial body was the convention. In two others, it was a body selected by the parties themselves, in the following manner:

A trial body to hear the preferred charges shall be selected in the following manner:

The secretary-treasurer will submit to the defendant and accuser a list of all chapter presidents. Each shall cross off alternatively one name until a panel of nine names shall remain. These nine men shall comprise the trial body. (International Union of Petroleum Workers, Ind.)

In the other constitutions there were special permanent trial committees, as in the Air Line Pilots' constitution:

The appeal board shall be composed of five regular and three alternate members . . . in good standing appointed by the executive committee from a list of candidates furnished by each master executive council . . .

Different Trial Body for Specified Cases. Twenty-five of the 116 provisions studied vested trial authority in two or more international bodies. One of these bodies was usually granted jurisdiction over nearly all cases filed at the international level, while the jurisdiction of the other bodies was usually limited to specified offenses or emergency situations. The body with general jurisdiction was nearly always the executive board; the president was usually authorized to exercise jurisdiction over specified cases.

A few (5) of these provisions did not specify the situations in which each body exercised trial jurisdiction. The constitution of the American Communications Association (Ind.), for instance, in addition to prescribing the jurisdiction and procedure for trials by the executive board, vested trial jurisdiction in the convention as follows:

The international convention shall have the power to bring to trial and suspend from office any officer of the international or a subdivision thereof.

²⁷ In the triennium report of the general executive board to the 32d convention, held in 1959, the board spoke of the procedure of "having initial trials of members conducted by an objective legally trained trial examiner unconnected with the union or its officers."

In the remaining 20 constitutions providing for more than one trial body, covering nearly 3 million members, the division of authority between the two trial bodies was set forth in greater detail. Under seven constitutions, only charges involving emergency situations were to be tried by other than the usual body. These seven constitutions permitted action whenever the danger of imminent injury to the union was too great to await a determination through normal trial proceedings. For instance, the Painters' constitution, in addition to vesting general jurisdiction in the executive board, permitted the president to take action as follows:

Whenever charges involving a member . . . or officer . . . create or involve, in the judgment of the general president, a situation imminently dangerous to the welfare or best interests of the local union, district council, or other subordinate body of this brotherhood, the general president is authorized, in his discretion, to assume original jurisdiction . . .

Five of these 20 constitutions based the jurisdiction of each trial body on the particular offenses alleged by the charges. For example, the Operating Engineers' constitution authorized the president to try Communists; the Tobacco Workers' president was permitted to conduct trials involving a refusal by a local union officer or member to obey international directives; and the Potters' constitution authorized the convention to exercise exclusive jurisdiction over charges alleging slander or libel during election campaigns.

In four constitutions, actions taken, or not taken, by the accused determined the identity of the body hearing his case, as the following provisions from two of these constitutions indicate:

The . . . (president) . . . may in his discretion, assign . . . (a vice president) . . . to take testimony when charges have been filed . . . over which . . . the (executive board) . . . had original jurisdiction . . . provided, however, that such action shall not be taken . . . without the consent of the accused. (United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association)

* * *

If the accused member or members make no request for trial within 10 days, they shall be deemed to have waived their right to trial and . . . consented to the disposition of their case in the manner described in the next . . . paragraph.

. . . the international president shall refer the same to the international officers, who shall, by a majority vote, dispose of the same . . . (American Flint Glass Workers' Union of North America)

Typically, major characteristics were similar but a few procedures differed in trials before each body. If the principal body was required to serve notice of charges and grant the accused an opportunity to prepare his defense, the same requirements usually applied to the other trial body. Differences often involved no more than the length of time allowed for each phase of the trial; principal bodies, as a rule, were allowed more time than other bodies.²⁸ In some constitutions, every procedure was identical. The Machinists' constitution, for

²⁸ Throughout the following sections, the trial body with the broadest jurisdiction was considered for analysis.

example, ordered each body to adhere to the requirements of the "Trial Procedure" section of the article on trials and hearings, as follows:

In the event the . . . (president) . . . refers the charges to trial before a special committee or before the convention . . . the matter shall be heard and decided in accordance with the procedure prescribed in section 5 of this article.

Specific Provisions for Impartiality of Trial Body. Twenty-six of the 116 constitutions with international trial provisions, covering 1 of every 3 members subject to trial provisions, contained a variety of impartiality requirements of the kind discussed in the section on local union trial procedures. Twenty-two of these constitutions disqualified interested persons from sitting on the trial board. A few of these merely guaranteed the accused an "impartial" tribunal, but a larger number specified the elements necessary to disqualify each person. The following example is from a constitution where the trial was conducted by the executive board.

No member who is directly or indirectly connected with or personally familiar with the facts out of which the charges arose shall be entitled to act as a member of the trial board. (International Brotherhood of Firemen and Oilers)

Where hearings were conducted by the president or persons selected by him, he was often disqualified if he initiated the proceedings:

. . . the national president or in the event he shall have filed the charges, then, the national secretary-treasurer shall designate a trial committee . . . (National Marine Engineers' Beneficial Association)

Of the remaining provisions in this area, two permitted each party to select an equal number of members to sit on the trial board, and two permitted either party to challenge and remove biased or interested persons. The constitution of the American Federation of Musicians described this procedure thusly:

The board or a subcommittee thereof shall be deemed eligible to hear, decide, and determine all matters . . . Any one or more of them may be excused from either participating or voting, but any objection to the eligibility or qualification of any such member of the board or subcommittee must be presented in writing before any action is taken by such board or subcommittee with respect to any such matter or question. The determination of the said board or subcommittee with respect to any such objection and with respect to the qualifications or eligibility of any of its members shall be final and conclusive.

Final Decision. Trial bodies in international trial procedures, unlike their counterparts on the local level, were nearly always authorized to render a final decision both on the guilt of the accused and the penalty to be imposed.²⁹ Of the 116 international trial provisions studied, 9 required another body to approve the trial body's decision before it became effective. Typically, these gave the trial body authority to conduct the hearing and prepare an advisory recommendation on (1) the guilt or innocence of the accused and (2) the penalty to be imposed if the accused was found guilty. These arrangements were most common if the

²⁹ For the identity of the final decisionmaking body, see appendix B-1. For the role of the international executive bodies in the entire trial process, see appendix B-2.

president was authorized to conduct the trial or appoint a trial body. For instance, the Carpenters' constitution provided:

Whenever it appears to the satisfaction of the general president that any local union or member thereof . . . is acting contrary to the welfare of the United Brotherhood of Carpenters and Joiners of America, he may appoint a committee to hold a hearing . . . upon completion of the hearing, the committee shall report its findings and recommendations to the general executive board. The . . . board is empowered to take such action as is necessary and proper for the welfare of the . . . (union) . . .

The provision in the Upholsterers' constitution was more explicit:

. . . the hearing officer, shall prepare a report of the proceedings which shall contain an accurate summary of the testimony and evidence presented at the hearing, and the hearing officers' recommendations as to: (i) Findings of fact; (ii) conclusions; (iii) guilt or innocence of the accused; and (iv) penalty, if any, such as expulsion, suspension, monetary fine, (stating amount thereof), deprivation of rights and/or censure.

In eight of these nine constitutions, the executive board was vested with authority to render the final decision. In the ninth, that of the Stone Cutters, the president had this authority.

As a practical matter, the actual identity of the persons conducting the hearing and rendering the decision might differ in constitutions empowering the trial agent to render decisions if hearings were, in practice, conducted by an appointee or delegate. As noted earlier, the power to appoint someone to act as the hearing authority's agent and to conduct trials was fairly common in international level trial procedures. If this power were exercised, cases would then be reviewed by two distinct persons before a final decision was rendered. For example, the Office Employees International Union provided for deputized hearing examiners who were to report findings of fact and conclusions to the trial authority for a final trial decision, as follows:

The executive board shall appoint and deputize any officer or agent of the international union to act as a hearing officer in the matter or it may appoint and deputize any officers or agents of the international union to act as a hearing committee in the matter. The hearing officer or committee shall conduct the hearing and report in writing to the executive board with findings, conclusions, and recommendations.

The Painters' constitution also required the trial authority to render final decisions:

In all hearings, trials, and other matters which are to be decided and acted upon by the general president or general executive board, the conduct of the hearing and the taking of evidence may be performed by a member or officer of the brotherhood duly appointed to act in the matter. At the conclusion of the trial or hearing, such representative shall make a summary of the evidence and report his findings and conclusions to . . . whoever appointed him, and the decision in the case shall be made by the general president or the general executive board.

In rare instances only, as in the following example, were deputized hearing examiners empowered to render final decisions:

After the committee has taken all the testimony that it shall deem sufficient, it shall then determine as a jury whether or not the accused is guilty, or guilty in part, or not guilty; if guilty, it shall assess the penalty. (International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers)

Chapter VI. Rights of the Accused and Related Matters

This chapter examines a variety of the due process rights guaranteed to local union officers and members during the entire course of the disciplinary proceeding. It begins with the status of the accused before he stands trial, and then describes the protection available to him during the hearing. Subsequent sections deal with the various types of notice requirements and appeal provisions, including a summary of the four public review boards that have been established. This chapter closes with an analysis of the time limits that prevail between various phases of the discipline process.

Status of the Accused

In more than half (81) of the local and international unions, the trial procedures studied—affecting nearly two-thirds of the members subject to trial provisions—regulated the status of accused local officers and members during the period before trial (table VI-1). Nearly all of these provisions permitted

Table VI-1. Status of the Accused in Local and International Level Trial Provisions,
National and International Union Constitutions, Early 1961

(Members in thousands)

Status of the accused	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for trial at local or international level -----	156	16,917.9	121	14,225.6	35	2,692.3
Constitutions providing for change in status -----	75	10,719.0	62	9,015.0	13	1,704.1
Before charges were filed -----	22	2,421.9	20	2,339.8	2	82.1
After charges were filed -----	40	6,826.0	33	5,250.3	7	1,575.7
Before and after charges were filed ---	13	1,471.2	9	1,424.9	4	46.3
Status explicitly unaffected -----	6	131.3	5	129.8	1	1.5
Constitutions not providing for change in status -----	75	6,067.5	54	5,080.8	21	986.7

NOTE: Because of rounding, sums of individual items may not equal totals.

the union to alter the status of the accused, usually by suspension from office or membership. Occasionally, this power was limited to withholding an officer's salary. In those constitutions where specific references were not found, such measures were probably available to officers and governing bodies under general grants of authority. Six constitutions, however, explicitly stated that the status of the accused could not be affected until the trial had run its course, as in the following:

A member against whom charges have been preferred shall not be suspended or debarred from being a candidate for any office or from any rights and privileges . . . pending a decision on charges preferred.
(United Garment Workers of America)

Most (40) provisions for affecting the status of the accused could not be invoked until after charges were filed. Moreover, in trial procedures at both the local and international level, the status of the accused was usually affected only when an international officer determined that suspension was necessary to protect the union. A smaller number of constitutions (35) authorized suspension before charges were filed at either level. This authority was nearly always limited to emergency situations or various enumerated offenses.

Before Charges Are Filed at Either Level.³⁰ Under 34 of the 35 constitutions permitting suspension before charges were filed, such provisions applied to local union officers (table VI-2). Under 29 of these 35 provisions, a statement

Table VI-2. Suspension of Local Union Members or Officers Before Charges Were Filed, National and International Union Constitutions, Early 1961

Type of provisions	(Members in thousands)							
	Total studied		Persons subject to suspension					
	Unions	Members	Local officers only		Local officers and members		Members only	
			Unions	Members	Unions	Members	Unions	Members
All constitutions providing for suspension before charges were filed -----	35	3,893.0	23	1,814.4	11	1,243.6	1	835.0
Constitutions requiring both charges and a hearing after all suspensions -----	29	3,560.5	20	1,622.2	8	1,103.4	1	835.0
Constitutions providing for charges or a hearing after suspension in certain situations -----	6	332.5	3	192.3	3	140.2	-	-
Charges followed suspension but hearings had to be requested -----	3	192.3	3	192.3	-	-	-	-
Charges optional; but if not filed, suspension automatically terminated after a specified time -----	3	140.2	-	-	3	140.2	-	-

NOTE: Because of rounding, sums of individual items may not equal totals.

of charges and a hearing followed automatically after suspension. The remaining six constitutions dispensed with one or the other of these requirements. Three of the six required the suspending officer to file charges, but did not call for a hearing unless it was requested by the accused local officer. For instance, the constitution of The Order of Railroad Telegraphers provided:

. . . Such officer will be notified of the specific charges and, if request is made within 10 days, he shall have a hearing. . . .

Three other constitutions required neither charges nor a hearing, but provided for automatic restoration of membership if charges were not filed within a specified period, ranging from 45 to 90 days. For example, the Laundry, Dry Cleaning and Dye House Workers International Union (Ind.) constitution stipulated:

Emergency action shall be effective only for 45 days unless within such 45 days written charges are caused to be served . . .

³⁰ The distinguishing characteristic between provisions in this category and those considered as summary discipline is that in these instances trial machinery is available.

Many of the 35 provisions specified the maximum time allowed to file charges after the accused was suspended. These limitations (also described in the "time limits" section shown subsequently) required charges within a "reasonable" time, at the same time, or within a specified number of days after suspension. Several constitutions also specified the time allowed to convene the trial body and render a decision. For example, one constitution provided:

(The International President) may summarily suspend an officer or committeeman from his office or position . . . , pending the filing of charges, hearing and decision thereon. Within 30 days thereafter he shall serve such officer or committeeman with specific written charges. The suspended officer or committeeman shall be given a reasonable time . . . to prepare his defense and shall be promptly afforded a full and fair hearing. . . . The Grand President shall render his decision within thirty (30) days after the completion of the hearing . . . (Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees)

The authority to suspend an accused before charges were filed was confined to international level trial procedures and was exercised by the international president, occasionally in conjunction with the executive board (table VI-3). This authority was limited under six constitutions to specific situations, but, nonetheless appeared to offer considerable latitude. Under nine constitutions, such action could be taken in emergency situations as defined by the president. For example, the constitution of the Boilermakers permitted its chief executive officer to act when

Table VI-3. Persons Empowered to Suspend an Accused Before Charges Were Filed, and Grounds for Such Action, National and International Union Constitutions, Early 1961

(Members in thousands)

Grounds for suspension before charges were filed	Total		Persons empowered to suspend					
	Unions	Members	International president		International president or general executive board		Other persons	
			Unions	Members	Unions	Members	Unions	Members
All constitutions providing for suspension before charges were filed -----	35	3,893.0	27	2,166.4	5	380.6	3	1,346.0
Constitutions specifying grounds for suspension before charges -----	31	2,989.0	24	2,097.4	5	380.6	2	511.0
General grounds -----	9	635.1	7	426.9	1	73.2	¹ 1	135.0
Specific grounds -----	6	826.9	3	253.8	2	197.0	² 1	376.0
General and specific grounds -----	5	175.4	5	175.4	-	-	-	-
Emergency situations -----	9	746.3	7	636.0	2	110.3	-	-
Other limitations -----	³ 2	605.3	2	605.3	-	-	-	-
Constitutions not specifying grounds for suspension before charges -----	4	904.0	3	69.0	-	-	⁴ 1	835.0

¹ Under this constitution, the local unions, the international president, and the general executive board had authority to suspend.

² Under this constitution, the person with authority to suspend was not identified.

³ Under 1 constitution, the power to suspend was based on general grounds or the presence of an emergency; and under 1 constitution, this power was based on general and specific grounds, or the presence of an emergency.

⁴ Under this constitution, the power to suspend was vested in the local union membership meeting.

NOTE: Because of rounding, sums of individual items may not equal totals.

in his opinion ". . . great and irreparable damage shall or may be done to the International Brotherhood . . ." The president of the Laundry Workers (Ind.) enjoyed a similar grant of power to "preserve the rights of the International Union or any affiliate thereof, or of any officers or members thereof, and for the purpose of preserving the status quo."

Other constitutions authorized the suspension of an accused before charges were filed for a variety of general grounds, such as "failure to comply with the constitution" or for refusal "to adhere to or carry out the instructions, directions, and decisions" of the local and international officers. Greater restrictions were noted in the constitutions of several unions, which limited immediate suspension to specifically enumerated offenses, such as financial malpractices. In one constitution, only financial officers were subject to suspension:

The General Executive Board shall have the authority to order the immediate removal, pending investigation, of financial officers of subordinate bodies who are neglectful, inefficient or incompetent in the performance of their duties. (Brotherhood of Painters, Decorators and Paperhangers of America)

Members who were accused of being dual unionists could be suspended under a few constitutions:

Any member of the Amalgamated who is or becomes a member of any other labor organization may be summarily suspended pending the filing of charges and a hearing. . . . (Amalgamated Clothing Workers of America)

Suspension After Filing of Charges—Local Union Level. In local union proceedings, local officers were far more frequently subject to suspension after charges had been issued than were members (table VI-4). In proceedings against both, however, suspension was nearly always discretionary rather than mandatory.

Table VI-4. Provisions for Suspension After Filing of Charges at the Local Union Level, National and International Union Constitutions, Early 1961

Suspension after charges	(Members in thousands)			
	Local officers		Members	
	Unions	Members	Unions	Members
All constitutions providing local union trial procedures -----	125	15,017.2	136	15,996.4
Constitutions providing for suspension after charges -----	30	5,661.4	15	2,409.4
Suspension discretionary -----	24	5,217.2	13	2,327.1
Suspension automatic -----	6	444.1	1	1.2
Other suspension provisions -----	-	-	1	81.1
Constitutions not providing for suspension after charges -----	95	9,355.9	121	13,587.0

¹ Under this constitution, members were not permitted to participate in the local union affairs while under charges unless the international president was petitioned for relief within 10 days after suspension.

NOTE: Because of rounding, sums of individual items may not equal totals.

Typically, an accused could be suspended only when a designated authority determined that the situation was sufficiently serious to warrant such action, as in the following examples:

Upon filing of such charges, and if the same are of such magnitude and seriousness as to jeopardize the interests of the Local or International, then and in that event the General President, if the matter is brought to his attention, may, if he deems it advisable, immediately suspend such member or officer from membership or office in the Local Union until a decision has been rendered in the case. (Building Service Employees International Union)

* * *

Whenever charges . . . alleging that an officer of a local union has been guilty of dual unionism, mishandling of funds or acting as an agent of an employer, the International Executive Board, if it finds that reasonable grounds exist for believing such charge to be true, shall have the power to suspend such officer from office pending final decision by the local union on such charges. (United Packinghouse, Food and Allied Workers)

Six constitutions provided for automatic suspension of accused local union officers. These provisions were similar to the following excerpt:

Any officer of a Local Union against whom charges have been referred by the Local Union to an Investigating Committee shall be relieved of his duties and responsibilities until a determination of the charges . . . (Oil, Chemical and Atomic Workers International Union)

Nearly all constitutions with suspension provisions identified the agent who would be responsible for removing local union officers and members (table VI-5). For local union trial procedures, an almost equal number designated local and international level authorities.

Table VI-5. Persons Empowered to Suspend an Accused After Charges Were Filed at the Local Level, National and International Union Constitutions, Early 1961

Identity of persons	Local officers		Members	
	Unions	Members	Unions	Members
All constitutions authorizing suspension after charges -----	30	5,661.4	17	2,619.8
Constitutions identifying persons -----	25	5,245.5	14	2,381.0
International president or executive board -----	13	2,517.6	7	2,261.5
Local executive board -----	6	209.5	2	7.1
Local membership meeting -----	3	1,040.4	2	26.3
Local union; agency not specified -----	2	1,035.1	2	32.6
Other persons -----	¹ 1	442.9	² 1	53.5
Constitutions not identifying persons -----	5	415.8	3	238.8

¹ Under this constitution, the international president, or executive board, and local executive board were empowered to suspend.

² Under this constitution, the international president and local union were empowered to suspend.

NOTE: Because of rounding, sums of individual items may not equal totals.

International Level. Constitutional provisions for suspension after charges in international trial procedures, unlike those in local trial procedures, were nearly as often directed against members as against local officers (table VI-6). In other respects, however, local and international provisions were quite similar. Nearly all provisions authorized discretionary rather than automatic suspension. Under one constitution, automatic suspension for both members and officers was permitted for one specific offense only:

Upon receipt of information substantiated by written testimony, tending to substantially establish any such officer or member as being a member of the Communist Party, or its affiliates, or as such sympathizer, the International Board of Directors shall immediately suspend such officer or member from his office or from membership, until such time as the accused shall have been tried at an impartial hearing . . . (Switchmen's Union of North America)

One constitution authorized suspension when the general executive board determined that there was reasonable ground to believe the accused guilty. Another authorized suspension in cases of dual unionism if two members submitted sworn affidavits containing all facts necessary to prove the guilt of the accused, as follows:

If two or more members . . . transmit . . . after charges . . . have been filed, an affidavit or affidavits stating the facts and circumstances within their personal knowledge which, if true, would establish the guilt of the accused, the International Executive Council may by majority vote impose upon the accused the ineligibility set forth . . . for the period ending with the delivery of its decision by the body conducting the hearing on the charges. (International Mailers Union, Ind.)

Under one constitution, the accused was not subject to suspension at any time after the filing of charges until the trial body recommended a penalty of suspension or expulsion to the final decisionmaking body:

. . . if the special committee recommends that the charged member be suspended or expelled, it shall have the authority to temporarily suspend the charged member until the International Executive Board has taken action on the recommendations. (International Union, United Automobile, Aerospace and Agricultural Implement Workers of America)

Table VI-6. Provision for Suspension after Filing of Charges at the International Level, National and International Union Constitutions, Early 1961

(Members in thousands)

Suspension after charges	Local officers		Members	
	Unions	Members	Unions	Members
All constitutions providing for trials at international level -----	113	13,385.4	94	12,499.6
Constitutions providing for suspension after charges -----	29	4,023.0	21	4,170.4
Suspension discretionary -----	26	3,675.7	18	3,685.0
Automatically suspended for all offenses ----	2	328.5	2	466.4
Automatically suspended for specified offenses -----	1	18.8	1	18.8
Constitutions not providing for suspension after charges -----	84	9,362.4	73	8,329.2

NOTE: Because of rounding, sums of individual items may not equal totals.

A suspended local officer or member was usually required to await the trial body's decision before seeking relief from a higher body. Only one constitution explicitly authorized an immediate appeal from an action of suspension pending trial. This unique provision follows:

Appeals by a Member Suspended from Membership
or Office Pending Trial

Whenever any member or officer has been suspended from membership or office by the International President-Secretary-Treasurer . . . such member shall have the right to take an immediate appeal to the International Executive Board from such suspension by sending a notice of such appeal to the International President-Secretary-Treasurer. (Metal Polishers, Buffers, Platers and Helpers International Union)

Due-Process Safeguards

Due-process provisions as formalized in union constitutions serve basically the same purpose as those in general legal proceedings. They establish procedural safeguards for the accused at his trial, regulate the conduct of the hearing, and aid the judicial process by excluding influences that might distract from an objective analysis of the guilt or innocence of the accused.

Union trial procedures nearly always specified one or more due-process safeguards (table VI-7 and appendix C, tables 1 and 2). Those relating to the

Table VI-7. Number of Selected Due-Process Safeguards¹ Specified in Local and International Union Trial Procedures, National and International Union Constitutions, Early 1961

Number of selected safeguards	Trial procedures	
	Local	International
All constitutions specifying trial procedures -----	136	116
Constitutions specifying selected safeguards -----	132	99
1 safeguard -----	5	18
2 safeguards -----	14	14
3 safeguards -----	11	12
4 safeguards -----	18	11
5 safeguards -----	19	7
6 safeguards -----	21	9
7 safeguards -----	16	11
8 safeguards -----	13	8
9 safeguards -----	7	3
10 safeguards -----	4	5
11 safeguards -----	2	1
12 safeguards -----	2	-
Constitutions not specifying selected safeguards -----	4	17

¹ Includes all safeguards for notice hearings, or time limits which were specified in union constitutions. However, only fairly common safeguards were tabulated or analyzed in detail. Less prevalent or unique safeguards were noted in textual discussions.

form of charges were discussed earlier; those dealing with the time allowed for each phase of the disciplinary process are described in a subsequent section; and those pertaining to the hearing itself and to advance notice are discussed in the next sections.

Hearing Safeguards. Although union trial procedures typically guaranteed several specific hearing safeguards, only the right to counsel appeared in a majority of the trial procedures studied (table VI-8). One of the principal reasons for the absence of particular due process safeguards is that constitutions are usually not intended to serve as procedural manuals.

Table VI-8. Selected Due-Process Safeguards in Local and International Trial Procedures, National and International Union Constitutions, Early 1961

Safeguards	(Members in thousands)			
	Local procedures		International procedures	
	Unions	Members	Unions	Members
All constitutions providing trial procedures ¹ at local or international level -----	136	15,996.4	116	13,515.0
Counsel -----	96	12,383.7	50	7,033.1
Impartial trial body -----	58	11,072.4	26	4,643.6
Full and fair hearing -----	55	7,108.6	37	3,082.6
Introduce evidence -----	56	7,025.3	39	4,666.9
Invite witnesses -----	58	6,785.3	29	5,198.6
Testify on own behalf -----	54	5,824.5	45	7,822.3
Record of proceedings -----	45	6,995.9	28	4,229.8
Confront and cross-examine witnesses -----	45	4,889.4	26	3,201.1
Continue or postpone hearing -----	15	2,086.0	7	460.2
Representation when unable to attend hearing ---	14	2,997.0	5	1,245.7
Separate witnesses -----	14	2,363.8	3	639.6
Require testimony under oath -----	12	1,766.1	4	489.4
Submit written defense -----	3	338.5	6	1,820.1
Subpena witnesses -----	7	135.1	4	111.1
Change venue -----	4	197.7	1	30.4

¹ Nonadditive.

General guarantees, similar to the following clause, were fairly common in union constitutions.

No member in good standing shall be deprived of his membership or of any right, privilege, or benefit derived therefrom, except upon a written complaint, notice, and hearing. (International Hod Carriers', Building and Common Laborers' Union of America)

Some unions bridge the gap between broad constitutional language and specific hearing safeguards by publishing separate procedural guides to aid local unions in the conduct of trials.³¹ The trial provisions of the International Chemical Workers Union constitution, for example, were supplemented in a Trial Procedure Handbook, and the Upholsterers' International Union published a pamphlet specifying the Procedure of an UIU Trial Board. These procedural manuals defined the precise requirements of each general constitutional guarantee and extensively described how each phase of the trial is to be conducted.

³¹ Less formally, local union officers turn to international officers or international representatives for guidance in disciplinary proceedings. This is particularly true in local unions that have little experience in this area or in cases that call for a policy interpretation from higher union authorities.

Distrust of technical legal procedures may have contributed to the absence of specific due process guarantees and procedural details. In fact, several constitutions expressed the belief that overly legalistic requirements might frustrate the basic inquiry into the guilt or innocence of the accused. The following excerpts are illustrative:

. . . the generally accepted rules of court evidence shall not apply, but the evidence must be presented, witnesses cross-examined, and testimony rejected in accordance with this constitution and the principles of justice. (Railroad Signalmen)

* * *

All trials and hearings shall be conducted impartially and informally. The technical rules of evidence and other similar legal technicalities need not be followed, but decision shall be based only upon the facts presented to the trial body during the trial. (American Bakery and Confectionery Worker's International Union)

* * *

The Executive Board . . . shall make every effort to afford due process; provided, however, that by "due process" is not meant strict, burdensome, delaying technicalities but, instead, is meant procedural and substantive due process. (The Wood, Wire and Metal Lathers International Union)

Another significant influence on the number of hearing safeguards specified may be the extent of the trial body's decisionmaking authority. In many trial procedures, primarily at the local union level, the trial body was limited to hearing the facts and making a recommendation to another body. The constitutions of these unions characteristically provided few specific safeguards at the hearing, but granted the accused the right to appear and argue his case at a meeting of the body authorized to render a final decision. For instance, the Utility Workers' constitution specified few trial safeguards, but granted the accused a "full opportunity to present his position on all matters bearing upon his trial" before the final decision authority.

Nearly all of the due-process safeguards studied were more prevalent in local union trial procedures than in procedures at the international level. Several constitutions, however, that did not provide extensive due-process protections at the international trial level directed the international executive board to develop rules and regulations for trials. These provisions were similar to the following extract from the Bakery and Confectionery Workers' Union (Ind.):

The General Executive Board shall adopt a code of procedure for the conduct of . . . trials and appeals which shall comply with the elements of due process of law.

Full and Fair Hearing. The right to a "full and fair hearing," one of the safeguards guaranteed every union member by the Labor-Management Reporting and Disclosure Act's "Bill of Rights,"³² was also specified in 55 of 136 local and 37 of 116 international level unions' trial procedures (table VI-8). The phrase "full and fair hearing" can be interpreted to include many, if not all, of the specific hearing safeguards selected for study. While a full and fair hearing guarantee was the sole due-process safeguard specified in a few constitutions, most of these guarantees appeared in constitutions which also provided other specific safeguards such as an impartial trial body, the right to confront accusers,

³² Section 101 (a)(5)(c).

and the right to present a defense. For instance, the constitution of the Brotherhood of Railroad Trainmen, in addition to describing specifically the method of conducting hearings, included the following introductory clause:

Any member violating any of the duties of membership, or any of the principles of the Brotherhood, shall, upon not less than fifteen (15) days written notice of specific charges, full and fair hearing thereupon and upon conviction thereof, be reprimanded, suspended, or expelled . . .

Constitutions that did not explicitly provide for "full and fair" hearings often granted the accused the same essential guarantee through the inclusion of a variety of specific hearing safeguards. For instance, the Sheet Metal Workers' constitution, which did not use this particular term, may have intended to achieve the same result by providing the following hearing safeguards:

. . . All parties shall be given full opportunity to present all relevant evidence and exhibits which they deem necessary to the proper presentation of their case and shall be entitled to cross-examine witnesses of the other party or parties. Each party shall have the privilege of selecting any good standing member of the local union to act as his counsel in the trial proceedings, . . .

The Labor-Management Reporting and Disclosure Act is perhaps largely responsible for the phrase "full and fair hearing." Similar guarantees in effect prior to the act were expressed in various related phrases. For example, the Jewelry Workers guaranteed the accused a "fair and just trial," and the Agricultural Workers (now merged with the Meat Cutters) granted the accused "all natural rights and privileges guaranteed any other citizen by the constitution and laws of the United States;" and the Pulp, Sulphite, and Paper Mill Workers entitled every member to a "just and impartial" trial.

Occasionally, the scope of this guarantee was limited. Disciplinary action against a member who failed to pay dues was explicitly excluded in several constitutions. For example, the Stage Employees' constitution provided:

Nothing in the provisions of this constitution and by-laws shall be construed to deprive a member charged with a violation . . . (of) the right to a fair trial whereby his guilt or innocence may be determined, with the exception that a member who has defaulted in the payment of any dues, fees, fines or assessments lawfully imposed . . . shall not be entitled to stand trial . . . (but may be) . . . punished summarily.

Only a few constitutions specified additional exclusions. Sometimes these exceptions seemed to admit of significant modification of the guarantee. For example:

FAIR TRIAL GUARANTEED: Except as elsewhere provided in this constitution for automatic suspension for nonpayment of organizational financial obligations, or fixed fines, or automatic resignation by publicly joining or assuming office in a dual organization, or in other cases as fixed by regulation of the General Executive Board, or in cases of emergency action by the President or the General Secretary-Treasurer, no member . . . and no officer shall be (disciplined) . . . without proper notice of charges and a fair opportunity to be heard in his defense before an impartial tribunal . . . (American Federation of Grain Millers)

A few constitutions supplemented the right of the accused to a full and fair hearing by granting him the right to ask for a change of venue (place) of the trial. These provisions usually permitted the accused to move the trial to

another local after a finding by an international officer that the accused's local could not be depended upon to conduct a fair trial. For example:

A trial may be held in any subordinate division, other than the member's own, by dispensation of the President when so requested by the accused upon presentation of reasonable excuse and the division where the charges are pending be notified to show cause why a change of venue should not be granted. In no case shall the accused be entitled to more than one transfer or change of venue. (Order of Railroad Telegraphers)

Union constitutions with safeguard provisions usually guaranteed the accused several specific due process safeguards (table VI-7). Many trial procedures specified from four to seven safeguards and a number provided eight or more. Typical of the constitutions which embodied a large number of guarantees is that of the International Association of Machinists, which specified 13 points for the trial procedure:

Trial Procedure

Section II.

1. Call trial committee to order.
2. Examine due books.
3. Clear the trial chamber of all people except the trial committee, the trial reporter (who need not be a member of the IAM), the plaintiff and his attorney, the defendant and his attorney, and representatives of the Grand Lodge, if in attendance.
4. The plaintiff and the defendant shall remain in the trial chamber until trial is concluded, but shall sit apart.
5. The chairman shall read the charges and ask the defendant if he is "guilty" or "not guilty." If the plea is "not guilty," the trial shall than proceed; if the plea is "guilty," the trial committee shall conduct such further proceedings as in its judgement are required.
6. The plaintiff or his attorney shall present his case first.
7. Witnesses shall be called into the trial chamber one at a time, and will leave the trial chamber upon completing their testimony, subject to recall by either the trial committee, the plaintiff, the defendant, or the representative of the G. L.
8. All persons giving testimony shall be required to affirm that the testimony that they give shall be the truth.
9. Defendant and his attorney shall have the right to cross-examine plaintiff's witnesses.
10. Defendant's witnesses shall then be called.
11. Plaintiff and his attorney shall have the right to cross-examine the defendant's witnesses.
12. Following the completion of cross-examination, the plaintiff and defendant shall be given the opportunity to make a statement or summation of their case, with the plaintiff having the first and last opportunity for remarks.
13. Before the trial committee shall begin their deliberations upon the testimony given, all persons except the trial committee shall leave the trial chamber.

At the other end of the scale were constitutions, such as that of the Glass and Ceramic Workers, which provided little procedural direction and specified few hearing safeguards:

The local Executive Board shall hear all the evidence and in accordance therewith they shall bring back a written report and recommendation to . . . the local union following the conclusion of the trial.

Evidence. Nearly all local and international trial procedures granting the right to introduce evidence (table VI-8) provided for acceptance of all evidence presented by the accused. The Allied Industrial Workers' constitution directed the trial committee to hear "all evidence;" the constitution of the Retail Clerks granted the accused "the right to present witnesses and other evidence on his behalf;" and the constitution of the Oil, Chemical and Atomic Workers required the trial body to grant the accused "every reasonable opportunity" to present evidence. A few more extensive provisions explicitly stated that technical rules of evidence were inapplicable in union trial procedures, as in the following example:

Strict rules of evidence shall not apply since efforts shall be made to ascertain all of the relevant and material facts. (The Wood, Wire and Metal Lathers International Union)

A few constitutions expressly required that all evidence presented be relevant to the issues in the case. The Chemical Workers' constitution expressed this qualification as follows:

The accused shall have the right to present any evidence relevant to the charges which he believes will support his cause.

The constitution of the Window Glass Cutters League of America was more precise:

The trial shall be limited to a hearing of the allegations specified in the charges and shall not be permitted to embrace matters not germane to the proof or disproof of such charges.

Similarly, a few constitutions provided guidelines for resolving doubts arising from conflicting evidence. Specified principally for cases involving possible expulsion, these constitutions, as in the following clause, required the evidence to prove the accused's guilt beyond a reasonable doubt:

He shall have a fair hearing and he shall not be expelled unless there is a finding that beyond a reasonable doubt he has been guilty of treason to the Brotherhood or to the cause of labor. (Brotherhood of Shoe and Allied Craftsmen, Ind.)

Some constitutions explicitly indicated that a confession of guilt by the accused avoided the necessity of introducing evidence, or continuing the trial:

When misconduct has been confessed by the accused, the lodge shall proceed to vote upon his or her punishment without trial. (Brotherhood, Railway Carmen of America)

Right to Testify in His Own Behalf. Union trial procedures often guaranteed the accused the right to testify in his own behalf. These provisions were characteristically brief. For instance, the Musicians' constitution granted the accused "an opportunity to defend himself;" and the United Automobile Workers' constitution granted the "right to be heard in person." Several constitutions also specified that an accused could not be compelled to testify against himself. These provisions, most common in the printing trades, were unequivocal:

The defendant to charges shall not be compelled to testify. (International Sterotypers' and Electrotypers' Union of North America)

Among the constitutions studied, one expressly required the accused to testify. This provision applied only in trials of local officers:

The Trial Committee shall have full authority to direct the charged officer to . . . submit to examination. (Marine Engineers' Beneficial Association)

The accused often waived his right to testify if he was unable or failed to attend the hearing. In a few constitutions, the absence of the accused (presumably unexcused) was considered an action of contempt, and judgment against him was rendered automatically. For instance, the constitution of the Order of Railway Conductors and Brakemen (Ind.) provided automatic expulsion for ignoring the notice to appear for trial:

Should any member ignore this summons, he may be declared expelled for contempt without further notice.

In most constitutions, however, trial proceeded in the absence of the accused, as in the following provision:

Failure . . . to appear in any trial . . . at the time designated in the notice for appearance, shall constitute a waiver of appearance and defense, and the trial . . . shall proceed in the absence of such party. (Brotherhood of Painters, Decorators and Paperhangers of America)

Several constitutions made special provision for those who pleaded inability to attend the trial. Commonly, in such cases the accused was permitted to submit a written statement, as in the Brewery Workers' constitution:

If the accused is unable to be present at the trial, he may present his case in writing.

The Sheet Metal Workers' constitution also extended this privilege to an accused who was "100 miles distant from the trial."

A few constitutions provided for counsel if the accused failed to attend the trial. Typically, the accused was to select counsel himself. For instance, the constitution of the Switchmen's Union of North America provided that:

A member failing to appear for trial or appoint counsel to represent him, shall be reported guilty by default of the offense with which he is charged.

One constitution provided for union-appointed counsel:

If the accused refuses or neglects to stand trial after . . . having been duly summoned, he will be represented by counsel and full and fairly heard as though present. (Railroad Trainmen)

Witnesses. Constitutional safeguards guaranteeing the accused the right to invite witnesses insured his right to obtain all available testimony. Typically, the accused was permitted to select any witness he chose, without regard to legalistic considerations of competency. In addition, several constitutions permitted the accused to present written statements from witnesses who were unable to attend the trial, and a few also permitted the accused to use the trial body's "subpena" power to compel the attendance of witnesses. Several constitutions specified additional safeguards to assure truthful testimony. These granted the accused the right to confront and cross-examine the witnesses, required witnesses to testify under oath, or required the separation of witnesses.

Only a few constitutions stipulated that the testimony of certain witnesses was inadmissible in union trial procedures. One constitution denied nonmembers the right to testify in person, but permitted the trial body to secure such testimony:

No person not a member of this order can testify as a witness before any trial committee, but the testimony of an outsider may be taken by a trial committee in such a way that the outsider will not know what use is to be made thereof. (Brotherhood, Railway Carmen of America)

A few printing trades unions excluded the testimony of persons whose past actions had proven them to be untrustworthy. These constitutions provided that persons who "rat" (work for less than the union scale) could not testify, as in the following clause:

Evidence by "Rats" Barred at Trials

The evidence of "rats" shall not be received in the trial of union men for any cause whatever, as they are under the ban of the union, and not recognized by it as honorable men. (International Mailers Union, Ind.)

Because union trial procedures emphasized securing all available evidence, provisions for securing the testimony of witnesses who were unable or unwilling to attend the hearing were common. Several constitutions specifically allowed written statements from witnesses who were unable to attend the trial. The railway brotherhoods generally admitted affidavits if trustworthiness was assured by the attestation of "three members, or an officer of a Division, or by a Justice of the Peace or other Public Officer." Unions in the entertainment industry commonly specified procedures for submitting written questions and answers, but excluded any part of a written statement that was denied by the opposing party. For instance, one constitution provided:

If a witness be unable to attend . . . written interrogatories and cross-interrogatories, on notice to the adverse party, may be allowed upon due application to the trial body; or . . . taken in the form of an affidavit, and in which latter case such portions of it as are not denied by the adverse party shall be admitted as evidence. (International Alliance of Theatrical Stage Employes and Moving Picture Machine Operators of the United States and Canada)

Several trial procedures provided "subpena" powers to require the attendance of witnesses who were unwilling to attend the hearing. This right was generally available to the accused, but in a few instances it was in the hands of the trial authority to use as it saw fit:

In any trial, the trial committee shall have the power to call for any books, papers, or witnesses it may deem necessary for a fair and just trial. (International Jewelry Workers' Union)

Disciplinary sanctions encouraged a subpoenaed witness to obey the trial body's command. A member-witness who failed to heed the order to appear at trial could be fined, suspended, or even expelled. Occasionally, punishment followed a summary contempt proceeding, but most constitutions required a separate trial. Subpena provisions infrequently referred to compensating a witness for expenses incurred in attending the trial. Of the few provisions that mentioned witness's expense—nearly all in international level trial procedures—most authorized the expenditure of union funds:

The (general executive board) . . . shall have the power to direct . . . any member . . . to appear before them to give testimony . . . and shall be authorized to pay the expenses of witnesses out of the general funds of the I. L. G. W. U. (International Ladies' Garment Workers' Union)

Under one constitution, witnesses were not compelled to attend trials unless they were compensated:

Expenses and loss of earnings may be allowed to witnesses in the discretion of the General President, but in the event such allowance to witnesses is not made, the Trial Board shall admit in evidence all relevant testimony of witnesses which either party submitted in affidavit forms. (Sheet Metal Workers' International Association)

Many constitutions specified safeguards aimed at securing truthful testimony. The right to confront and cross-examine witnesses was common under local and international trial procedures. This safeguard enabled the accused to test the credibility of witnesses appearing against him and elicit all relevant facts from witnesses who might be inclined to hold back certain facts. Constitutional language guaranteeing the accused this safeguard was typically brief, succinct, and confined to the questioning of witnesses appearing against him. For instance, the Ladies' Garment Workers' constitution granted the accused "the right to question all witnesses who may appear against him," and the American Bakery and Confectionery Workers' constitution permitted the accused to "cross-examine witnesses appearing against him."

The unique provision in the Potters' constitution also limited the scope of cross-examination:

The accused shall then have the right to question the opposite side, in order to bring out or clear up any point in the case, . . . but no abusive or impertinent questions or language shall be permitted.

Several constitutions required witnesses to testify under oath. Either the accused or accuser was usually permitted to request the trial body to require each witness to swear to the truthfulness of his testimony. For instance, the Stage Employes' constitution required an oath "whenever the accused or executive board or committee so request," and the United Rubber Workers' constitution granted such party the right to:

. . . demand that witnesses be sworn by a notary public or official authorized to administer oaths or to take an affirmation to tell the truth. Any witness who refuses to take an oath . . . shall be barred from testifying.

Occasionally, a specific oath was required, as in the following example:

You do solemnly affirm, upon your honor as a member of the Order of Railway Conductors and Brakemen, that the evidence you shall give in this case . . . shall be the truth and nothing but the truth. (Order of Railway Conductors and Brakemen, Ind.)

A further safeguard in an effort to assure truthful testimony—separation of witnesses—was sometimes provided. These provisions required that all witnesses be excluded from the hearing until they were called to testify. Most provisions required this separation of witnesses in every trial, but a few provided for separation only when requested by one of the parties, as in the following example:

The accused or accusers have the right to exclude all witnesses until called by the Judge to present their testimony. (International Woodworkers of America)

Right to Counsel. The right to counsel was the most prevalent safeguard specified in local and international trial procedures (table VI-9). Nearly all constitutions, however, qualified this right by barring professional attorneys. One constitution, for example, permitted the accused "to select only a member," and another directed the accused "to appear in person or by or with a member of the union to answer" charges. Several granted the accused the right to "have the assistance of any member of the union to act as his counsel," and, while not specifically excluding members who were also attorneys, it is unlikely that a significant number of union members were attorneys-at-law. A few trial procedures guarded against this possibility by adopting language similar to the following:

Both the charging party and the charged party . . . shall have the right to be . . . represented by any member of this International Union not actively engaged in the practice of law . . . (American Bakery and Confectionery Workers)

Table VI-9. Assistance of Counsel in Local and International Trial Proceedings,
National and International Union Constitutions, Early 1961

Counsel provisions	(Members in thousands)					
	Local procedures			International procedures		
	Unions	Members	Percent of members	Unions	Members	Percent of members
All constitutions providing for counsel in local or international trial proceedings -----	96	12,383.7	100	50	7,033.1	100
Constitutions granting assistance of counsel in all trials -----	91	11,840.7	96	46	6,751.9	96
Counsel guaranteed without qualifications -----	9	1,248.6	10	8	1,417.0	20
Only members eligible to act as counsel -----	80	10,439.7	84	38	5,334.9	76
Other -----	¹ 2	152.4	1	-	-	-
Constitutions granting assistance of counsel at discretion of the trial body -----	5	543.0	4	4	281.2	4

¹ Under 1 constitution, an accused officer was guaranteed the assistance of a member as counsel, but members' rights to counsel were not specified; and under 1 constitution, the other party had the right to employ counsel if 1 party was assisted by a member or an attorney.

NOTE: Because of rounding, sums of individual items may not equal totals.

The constitution of both the Office Employees' International Union and Upholsterers' International Union forbade lawyers at trial, but permitted the accused legal counsel in preparing his defense:

Any accused member shall have the right to be represented in his defense by any other member of the . . . union and shall have the further right of advice and consultation of legal counsel, if desired, but no attorney-at-law shall be entitled to be present in any such proceeding. (Office Employees' International Union)

A few constitutions extended the right to counsel to professional advocates. For example, the Insurance Workers' constitution explicitly granted the accused the right to be represented "by a member of the union in good standing or by legal counsel of his own choosing." One large union, accounting for most of the members covered by these clauses, implied the right to legal counsel in the following clause:

A member preferring charges, and a member against whom charges are preferred shall be permitted representation by counsel of his own choice; such counsel, however, shall be required to abide by the Trial Procedure (International Union, United Automobile, Aerospace and Agricultural Implement Workers of America)

Equally infrequent were provisions which left the presence of counsel to the discretion of the trial body. These provisions enabled the trial body to assure that each side enjoyed an equal opportunity to present its case. For example, the following clause denied both parties the right to counsel unless this right was granted by the trial body:

None of the parties involved shall be represented by legal counsel unless specific permission therefor shall have been granted by the Trial Board. (International Association of Marble, Slate, and Stone Polishers, Rubbers and Sawyers, Tile and Marble Setters' Helpers and Marble Mosaic and Terrazzo Workers' Helpers)

Under two constitutions, the trial body was explicitly required to grant each side an equal opportunity to be represented by counsel. One of these provided as follows:

The member selected as counsel shall not be a lawyer. If he is a lawyer, he shall be ineligible to represent the party charged. The trial board may, however, in its discretion, permit the accused to be represented by a lawyer but, when he does so, the other side shall have the same right. (Brotherhood of Painters, Decorators and Paperhangers of America)

Record of Proceedings. Constitutional provisions for a record of proceedings assumed a significant protective role in case of appeal to a higher authority. This record serves to provide the appeal body with all the pertinent facts bearing on the issues.

Only a relatively small number of the constitutions with such provisions called for stenographic transcripts of the trial (table VI-10). Under four constitutions, these transcripts were required in every trial and paid for from union funds, while under five constitutions they were provided only when requested by one of the parties. Because considerable expense would be incurred in obtaining a transcript verbatim, a few constitutions required the party requesting the more detailed record to pay the added cost.

Table VI-10. Record of Proceedings in Local and International Trial Procedures, National and International Union Constitutions, Early 1961

Record of proceedings	(Members in thousands)					
	Local procedures			International procedures		
	Unions	Members	Percent of members	Unions	Members	Percent of members
All constitutions providing for a record of proceedings -----	45	6,995.9	100	28	4,229.8	100
Constitutions providing for stenographic records -----	12	2,270.0	32	6	873.3	21
Stenographic record provided by union -----	4	564.5	8	3	277.4	7
Stenographic record provided at expense of requesting party -----	5	1,042.6	15	2	159.6	4
Stenographic record provided; other qualifications -----	13	663.0	9	2 ¹	436.3	10
Constitutions merely providing for a record -----	33	4,725.9	68	22	3,356.5	79
Record provided by union -----	32	4,541.4	65	20	3,148.5	74
Record provided at expense of requesting party -----	1	184.5	3	2	208.0	5

1 Under 2 constitutions, a stenographic record was provided at discretion of the trial body; and under 1 constitution a stenographic record was provided at the requesting party's expense if not provided by the trial body.

2 Under 1 constitution, a stenographic record was provided at the discretion of the trial body.

NOTE: Because of rounding, sums of individual items may not equal totals.

In a majority of the constitutions requiring a record of proceedings, the form or content of the record was not precisely defined. Typically, these provisions directed the secretary to take minutes that were "complete," "accurate," or "comprehensive," and that did not overlook any vital part of the trial. In one constitution, the parties were granted an opportunity to review the record before it was transmitted to the appellate body. This provision, cited below, permitted the parties to correct any errors in the record.

The trial committee shall elect a secretary whose duty it shall be to reduce to writing the substance of the testimony . . . The parties shall be furnished with a copy of the minutes of the trial and shall either attest thereon to the correctness thereof or submit to the secretary . . . in writing any objections thereto. Failure to submit such objections within ten (10) days . . . shall constitute a waiver thereof on appeal. (Sheet Metal Workers' International Association)

Double Jeopardy. Several constitutions explicitly safeguarded the accused against repeated prosecution for the same offense. These double jeopardy safeguards usually departed from the popular concept that an accused man be prosecuted only once for the same offense, by permitting at least one retrial. For instance, the provision cited below did not exclude the possibility of a second prosecution by a different trial body at a higher level of the union:

No member or officer . . . shall be tried twice by the same body on the same charge. (United Shoe Workers of America)

A few provisions explicitly permitted one retrial. For instance, the following provisions allowed a second trial before the same body:

. . . If such report (of the trial body) is not accepted by the lodge, a new committee may be appointed . . . except that in no event shall any member be subjected to trial before a committee after the report of the second committee. (Brotherhood of Maintenance of Way Employes)

One constitution specifically permitted a retrial if the appellate body, after reversing the trial body's decision, sent the case back for a second trial on technical grounds:

No member or officer . . . shall be tried twice by the same body on the same charge, except where a conviction has been reversed by a higher body on technical grounds and the case is sent back for retrial. (United Hatters, Cap and Millinery Workers International Union)

Notice Safeguards

Formal constitutional provisions for advance notice of impending disciplinary action safeguarded the right of the accused to an adequate opportunity to prepare for each phase of the proceedings. Nearly all local trial procedures, and more than three of every five international trial procedures, guaranteed the accused notice that charges had been filed against him. A slightly smaller number of trial procedures at each level also guaranteed the accused advance notice of the date set for trial. A substantial number safeguarded the opportunity of the accused to prepare a timely and responsive appeal, through formal provisions for notice of the trial body's decision. The form of notice of charges and decisions and the methods for transmitting notice to the accused are discussed in this section.

Notice of Charges. Notice that charges had been filed against him was guaranteed the accused in 129 local unions and 71 international union trial procedures (table VI-11). In some of those without this specific guarantee, a requirement that the accused be given notice of the date set for trial would, in fact, inform him that he was under charges. Of the 7 provisions for trial at the local level that did not require notice of the filing of charges, 3 provided for notice of the date set for trial; of the 45 without notice-of-charges provisions at the international level, 11 contained provisions for notice of the date set for trial.

Table VI-11. Method of Notifying the Accused of Charges by Level, National and International Union Constitutions, Early 1961

(Members in thousands)

Method of notifying the accused	Local procedures		International procedures	
	Unions	Members	Unions	Members
All constitutions requiring notice of charges in local or international trial procedures -----	129	15,667.7	71	10,261.4
Constitutions specifying method -----	73	10,585.6	46	6,648.0
Registered mail -----	32	4,394.4	20	1,974.5
Registered mail or personal service -----	20	3,471.3	10	2,365.5
Mailed or sent -----	13	2,388.4	12	2,019.0
Mailed, sent, or served in person -----	3	40.4	1	5.9
Other methods -----	¹ 5	291.1	² 3	283.1
Constitutions requiring notice of charges, method not given -----	56	5,082.1	25	3,613.4

¹ Under 1 constitution, extensive alternative methods were given if personal service was impossible; under 1 constitution, method of notifying members was not specified, but officers were notified by registered mail or in person; under 2 constitutions, notice by telegram was specified in addition to other methods; and under 1 constitution, notice was communicated by telephone.

² Constitutions specified telegram in addition to registered mail or personal service.

NOTE: Because of rounding, sums of individual items may not equal totals.

The responsibility for notifying the accused of charges rested with an officer of the union, usually the secretary, but occasionally the president. Furnishing the accused with a copy of the charges was usually the prescribed way of giving notice. A substantial number of provisions at each level, covering approximately one of every three members, required the responsible officer to notify the accused of charges, but made no reference to the method of notice. A majority of the provisions, however, stipulated the method of communication the officer was to employ. Registered mail, occasionally with a return receipt, was the most prevalent requirement. Less frequently, the officer was simply required to "mail" or "send" notice to the accused. For instance, one constitution provided:

A copy of the charges attested by the seal of the local union, signed by the secretary . . . shall be immediately sent to the accused to his last known address on the books of the Local Union . . . and this shall be deemed due notice (United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada)

A few constitutions stipulated personal notice or, failing this, notice by registered or ordinary mail. One provision also authorized service by publication in the union's paper if personal service or registered mail were unsuccessful:

The Committee is expected to use reasonable efforts to serve the accused member in person with said charges and notice; but if after such efforts the accused shall not be found, a copy of said charges and notice shall be delivered by one or more members of the Committee, or sent by registered mail to his usual or last known place of residence; if such place of residence is not known, notice . . . shall be published in one issue of the B. of L.E. Journal . . . (Brotherhood of Locomotive Engineers, Ind.)

Under a few constitutions, the notice of charges was also to specify the date set for trial, thereby eliminating a separate trial notice, and a few provisions also required the notice to advise the accused of his constitutional rights. One constitution provided this information on the following official form:

Notice of charges against members of this Alliance shall be presented upon the following official form:

International Alliance of Theatrical Stage Employes and Moving Picture
Machine Operators of the United States and Canada

NOTICE OF CHARGES

Brother _____:

You are hereby notified that charges of which the enclosed is a copy have been filed against you before the Board or Committee of this Local and that the

_____ Day _____ Month
_____ has been fixed for your trial
_____ Year _____ Time
before the Executive Board or Committee at _____
Place of Trial

Your rights as a member are protected by your Local Constitution and Bylaws and the Constitution and Bylaws of the I. A. T. S. E. and M. P. M. O. of the U. S. and C. Read those provisions relating to charges, trials, and appeals carefully, then study the enclosed charges. At the time of the trial you are entitled to bring as many witnesses as you choose and to be represented by a fellow member as your counsel. If you cannot attend the trial at the time set, you may ask the Executive Board or Committee to postpone your hearing.

You are not to discuss these charges with any member of the Board or Committee before the hearing and your defense will not be heard before that time.

Notice of Trial. Most trial procedures at each level guaranteed the accused advance notice of the date set for trial. Several of the constitutions without this requirement provided for a notice of charges, which, in practice, might also include notice of the date set for trial—16 of the 20 at the local level,

and 13 of the 47 at the international level. Provisions for notice of the date set were similar to provisions for notice of charges. A few constitutions specifically provided for serving these notices together, as in the following provision:

The committee shall serve the accused brother with a copy of the charges and notify him in writing of the date and hour of the trial
(Association of Railway Trainmen and Locomotive Firemen, Ind.)

Similarly, the constitution of the United Garment Workers of America provided:

The local Executive Board shall duly notify the member of the nature of the charges and of the time and place of trial

Under a few constitutions, the trial body was required to notify the accused of the date set for trial without explicit provisions for notice of charges. One of these constitutions provided minimum procedural standards but did not exclude the possibility that a copy of the charges might be included in the notice of the date set for trial.

The Bylaws or Rules of a Local shall specify the manner in which an accused person shall be tried and must conform with the following minimum standards:

. . . (3) The trial shall be held speedily with due notice to the accused. (Communications Workers of America)

Notice of the date of trial was often required to precede the trial by a specified number of days. This interval between notice and convening of the trial body allowed the accused an opportunity to prepare his defense. This will be discussed more fully in the section dealing with time limits.

Notice of Decision. Only a relatively small number of union constitutions required that the accused or other interested parties be notified of the trial body's decision (table VI-12). Presumably, at the ordinary union trial,

Table VI-12. Notice of Trial Body Decision and of Right to Appeal by Level,
National and International Union Constitutions, Early 1961

Notice provisions	(Members in thousands)			
	Local procedures		International procedures	
	Unions	Members	Unions	Members
All constitutions providing for notice of trial decision or appeal rights -----	36	5,477.7	32	4,602.4
Written decision only -----	25	3,050.3	23	1,310.4
Written decision and appeal rights -----	1	75.0	-	-
Notified of appeal rights, no reference to written decision -----	1	135.0	1	135.0
Notified if not present at meeting, no reference to written decision or appeal rights -----	1	55.0	-	-
Notified, no reference to written decision or appeal rights -----	8	2,162.5	8	3,157.0

NOTE: Because of rounding, sums of individual items may not equal totals.

particularly at the local level, all parties concerned would be expected to be present and thus informed of the outcome of the case. This, plus the availability of the record of the trial in a number of cases, may have accounted for the lack of formal provisions in this area. Moreover, the absence of a formal notification requirement did not rule out the possibility that a written decision might be sent, as a matter of practice, to all concerned, or that the decision might be publicized in the union's paper or bulletin board.

Formal constitutional notice-of-decision provisions occurred in only 36 local and 32 international trial procedures. These usually required the trial body to prepare a written decision and furnish a copy to each party, as in the following illustration:

Every decision . . . shall be reduced to writing and a copy thereof furnished to each directly interested party. (Brotherhood of Painters, Decorators and Paperhangers of America)

A few of these provisions also specified the contents of the decision, as in the following:

The decision shall contain a finding of the facts, the Board's conclusions as to the guilt or innocence of the accused, and the penalty, if any, to be imposed. (American Train Dispatchers Association)

Prompt notice of the trial body's decision, including the reasons for the decision, was designed to permit the accused to prepare appeal. The trial body was often required to give "prompt" or "immediate" notice to the accused. In a few provisions, the time allowed to file an appeal was computed from the time the accused was notified of the decision, as in the following constitution:

All manner of appeals shall be taken within fifteen (15) days from the date the decision is placed in the mail or otherwise transmitted to the interested parties. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind.)

Only two constitutions explicitly required the notice of decision to be of such nature as to advise the parties of their right to appeal to a higher authority. The constitution of the Transport Workers Union required this notice to point out that appeals must be filed within 30 days after the trial body rendered its decision, while the Sheet Metal Workers' constitution provided for a notice that would "advise the parties of their right to appeal."

Appeal Provisions

Under the union judicial system, the appeal procedure affords further consideration of the case, and thus serves to correct errors which may have occurred at lower union tribunals. It is a characteristic of union trial procedures, however, that unlike civil systems, authorities exercising administrative and executive functions also act in judicial capacities, including during the appeal process. The union appeals procedure thus may, particularly where international officers are among the litigants, require the accused to appeal to the same agent or agency responsible for the charges in the first place.

The final appeal body, typically, is the convention, representing the membership as a whole. Whether such a meeting of delegates, even if it were to assemble annually, which most do not, can properly exercise judicial functions,

has been seriously questioned.³³ At present, an independent judiciary in the form of an "outside" review body is found in only four unions. These and other elements of the appeal process are described in this section.

Provisions for Appeal. Nearly all union constitutions providing for trial authorized appellate review of the trial body's decision (table VI-13). Appeal provisions were expressed usually in broad general language granting the right to appeal any trial decision. Only a few (11) appeal clauses, usually in constitutions

Table VI-13. Appeal From Decisions of Local or International Level Trial Bodies, National and International Union Constitutions, Early 1961

Appeal provisions	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for trial at local or international level -----	156	16,917.9	121	14,225.6	35	2,692.3
Constitutions providing for appeal -----	153	16,912.3	121	14,225.6	32	2,686.7
All trial decisions appealable -----	142	16,119.0	112	13,442.0	30	2,676.9
Some, but not all, trial decisions appealable -----	11	793.4	9	783.6	2	9.8
Local decisions appealable; no reference to international decisions -----	3	375.7	3	375.7	-	-
International decisions appealable; no reference to local decisions -----	2	10.5	1	2.5	1	8.0
Members could appeal; no reference to officers -----	3	314.2	2	312.4	1	1.8
Officers could appeal; no reference to members -----	1	75.0	1	75.0	-	-
Only specified penalties appealable ---	2	18.0	2	18.0	-	-
Constitutions without appeal provisions -----	3	5.6	-	-	3	5.6

NOTE: Because of rounding, sums of individual items may not equal totals.

³³ One authority had the following to say on the subject:

These arrangements by which local membership assemblies and convention delegates function as courts is perhaps the most important difference between the judicial process in unions and the judicial processes of public governments in the United States. Court verdicts are not referred to the body politic or to the legislative branch of the government for review and final decision. Even New England town meetings do not sit in judgment of law violations; independent judges and courts perform this function. The arrangements for popular voting on the truth or falsity of charges resembles rather the so-called "peoples courts" of Soviet governments. They are defended as a form of direct democracy, but the lessons of history are clear that independent courts and judges are as essential to protect individual rights and liberties against popular majorities as against executive officials and the legislative bodies of governments. William M. Leiserson, American Trade Union Democracy, New York, Columbia University Press, 1959, p. 265.

of smaller unions, did not authorize appeal from all trial decisions. Among these, the Coopers' constitution required a penalty of \$5 or suspension or expulsion before an appeal could be taken; and the Retail, Wholesale, and Department Store Union's constitution granted members the right to appeal from any trial decision, but provided that a local union's decision to discipline local officers would be final and binding.

The first step under the appeal procedure was satisfied by filing a written notice of appeal with the next higher union authority. Form or technical content was generally not set forth. For example:

No specific form or formality shall be required, except that such notice shall clearly state an appeal is being taken. (Laundry, Dry Cleaning and Dye House Workers International Union, Ind.)

Only a few constitutions specified the basis for appeals. One of these, the Jewelry Workers' constitution stipulated:

Appeals to a higher body may be made upon the following basis:

1. Additional evidence.
2. Failure of the trial committee to follow procedure regarding charges and trials.
3. Violation by the trial committee of the International Constitution or the local Bylaws in conducting a trial and making its decision.

The first appeal body was usually the next higher level of union authority. In a typical appeal sequence a local union decision would first be reviewed by a district body or, if none existed, by the international president. From this level, appeals were usually taken to the general executive board, then to the convention. In rare instances, constitutions provided different avenues of appeal, depending upon the ground on which the appeal was based. For instance, the Stereotypers' constitution provided:

Charges of irregularities, only, may be appealed directly to the International Executive Board. All other appeals must be filed with the International President. (Thereafter, appeals may be taken from the decision of the International President to the International Executive Board.) Appeals on irregularities are restricted as follows:

- (a) The serving or presenting of charges;
- (b) The conduct of the trial;
- (c) Questions pertaining to any irregularity in the charges, findings of the trial committee, or vote of the local union.

Persons entitled to appeal. While all union constitutions that identified the party entitled to appeal from the trial body's decision guaranteed the accused this vital safeguard, a large number (89) also permitted persons other than the accused to file an initial appeal (table VI-14). More than half of these constitutions authorized appeal by any interested party. The constitutional definitions of an "interested party," where there were such definitions, were widely varied. Under a few constitutions, dissatisfaction with the decision was sufficient:

A member or officer of any subordinate body who has been convicted of any offense as herein set forth, or the accuser when the accused has been acquitted, or any member who has a grievance or believes that an injury has been done in any way (Retail Clerks International Association)

* * *

Any member or members dissatisfied with the decision . . . may appeal. . . . (International Brotherhood of Pulp, Sulphite and Paper Mill Workers)

Other constitutions required the party to be "affected" by the decision in order to have an appealable interest.

Any local union, council, officer . . . or member . . . who is affected by any decision . . . shall have the right to appeal . . . (Sheet Metal Workers)

Still others required the interest to be "direct":

Any directly interested party to a proceeding in which a final decision has been rendered, feeling aggrieved over such decision, may take an appeal therefrom. (Brotherhood of Painters, Decorators and Paperhangers of America)

Clauses that limited the right to appeal only to the accused and accuser were characteristically more precise than the indefinite "interested party" clauses, as in the following provision:

Appeals from decisions . . . may be taken in the manner provided . . . by the accused or by the person filing the charge. (Textile Workers Union of America)

Table VI-14: Persons Authorized to Appeal From Local or International Trial Decisions
National and International Union Constitutions, Early 1961

Persons authorized to appeal	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for appeal -----	153	16,912.3	121	14,225.6	32	2,686.7
Constitutions authorizing the accused and other parties to appeal -----	89	12,540.9	71	10,079.9	18	2,461.0
Any interested party -----	47	6,354.6	36	4,669.0	11	1,685.5
Accused and accuser only -----	41	5,193.7	34	4,418.2	7	775.5
Varies for initial and subsequent appeals -----	¹ 1	992.7	1	992.7	-	-
Constitutions authorizing only the accused to appeal -----	39	2,501.1	33	2,355.3	6	145.8
Accused only for initial and subsequent appeals -----	² 35	2,161.5	30	2,115.7	5	45.8
Varies for initial and subsequent appeals -----	³ 4	339.6	3	239.6	1	100.0
Constitutions without identity provisions -----	25	1,870.3	17	1,790.4	8	79.9

¹ Under 1 constitution, only the accused or accuser were authorized to file an initial appeal but any interested party was authorized to file subsequent appeals.

² Under 1 constitution, 1 clause providing that verdicts of not guilty were final and not appealable was interpreted to mean that only the accused could be the "aggrieved" in a clause granting any aggrieved person the right to appeal.

³ Under 3 constitutions, only the accused was authorized to file initial appeals but any interested party was authorized to file subsequent appeals; and under 1 constitution, only the accused was permitted to appeal from international level trial decisions but no reference was provided for appeal from local union level trial decisions.

NOTE: Because of rounding, sums of individual items may not equal totals.

Under 39 of the 153 appeal provisions, only the accused was permitted to appeal from the trial body's decision. The accused was thus secured from repeated harassment and persecution that might follow if the accuser were permitted to appeal verdicts of acquittal. Union appeal procedures that permitted only the accused to file an appeal or that denied any appeal from an acquittal protected the accused from double jeopardy at an appellate level, as in the following clause:

In the event of an acquittal the decision shall be final and not subject to appeal. In the event of a guilty verdict the accused may appeal. (Laundry, Dry Cleaning and Dye House Workers International Union, Ind.)

A few constitutions qualified the double jeopardy safeguard by permitting the accuser to file subsequent appeals if the accused had initially appealed from a verdict of guilty as in the following provision:

Any member who has been convicted of any offense . . . and who believes his conviction was irregular or unjustified may appeal to the International Executive Board . . .

Either the appellant or respondent may appeal a decision of the International Executive Board, or any Local Union affected as such by a decision or action of the International Executive Board may appeal to the next succeeding convention . . . (United Rubber, Cork, Linoleum and Plastic Workers of America)

Status Pending Appeal. In the great majority of cases, there were no explicit provisions for staying execution of the trial body's decision pending determination of the final appeal (table VI-15). This was especially true with regard to appeals by local officers, with only five constitutions specifically providing for a stay. It should be borne in mind, however, that in some of the 52 constitutions providing for a stay of execution in cases involving "members" the term may have been used in its broad sense so as to include officers as well.

Of the appeal procedures that specified a stay of execution, the most common provision (in 28 constitutions) was one which gave the appellate body discretionary authority. For example:

Pending an appeal, the decision appealed from shall remain in full force and effect unless the appellate body, upon application and the showing of exceptionally good cause, deems it appropriate to stay the enforcement of the judgment. (Bakery and Confectionery Workers' International Union of America, Ind.)

Only five constitutions provided for an automatic stay of execution of all decisions pending appeal by members. The notice of appeal usually marked the point at which the waiver of enforcement became effective.

Six constitutions provided for an automatic stay of execution of all penalties against members except those involving fines. Typically, the union was to hold the fine in an escrow account until a final decision was rendered.

As mentioned previously, most constitutions required members on trial to comply with the trial body's decision pending a final determination by an appellate body. These members, if suspended or expelled, would forfeit membership from the time the trial body rendered its decision. A measure of protection, however, was sometimes granted, as shown in the following clause:

While any member . . . is exercising the right of appeal, the financial standing of such member . . . shall not be impaired by refusal to accept dues . . . until after the (Executive Council) has passed upon the appeal . . . (International Association of Machinists)

Table VI-15. Status of Members and Local Officers Pending Appeal,
National and International Union Constitutions, Early 1961

Status pending appeal	(Members in thousands)			
	Members		Local officers	
	Unions	Members	Unions	Members
All constitutions providing for appeal -----	152	16,906.5	150	16,868.7
Constitutions providing for stay of execution of all or some decisions of trial body pending appeal -----	52	8,311.6	5	996.8
Appeal body could stay all decisions -----	28	5,497.4	-	-
Decisions of local could be stayed; no refer- ence to international decisions -----	9	862.7	-	-
All decisions were automatically stayed ----	5	61.4	-	5.9
All decisions except on fines were automatically stayed -----	6	294.6	-	-
All decisions except on fines and officers' removal were automatically stayed -----	-	-	4	990.9
Other -----	1	1,595.5	-	-
Constitutions not providing for stay of execution of decisions of trial body pending appeal ----	² 100	8,594.9	145	15,872.0

¹ Under 1 constitution, all decisions were in full force and effect, but the international president could waive the payment of fines; under 1 constitution, the appeal body could stay local, but not international decisions; and under 2 constitutions, only decisions to reprimand and censure were automatically stayed.

² Includes 28 constitutions which specified that all decisions were in full force and effect; 19 constitutions which specified that all international decisions were in full force and effect, with no reference to local decisions; and 53 constitutions with no reference to stay of execution.

³ Includes 2 constitutions which specified that all decisions were in full force and effect, and 143 constitutions with no reference to stay of execution.

NOTE: Because of rounding, sums of individual items may not equal totals.

Characteristics of Appellate Review. The union appeal process was characterized by provisions for frequent reviews of the trial body's decision, commonly coupled with a power to grant the accused a new trial before the appeal body. A local union decision was usually reviewed by each organizational level up to the convention. Thus the district body, the international president, and the general executive board passed on the guilt or innocence of the accused. The procedural details of the appellate hearing before these bodies were rarely specified. Most constitutions granted wide discretion to the appeal body. For example:

Appeals shall be heard either on the record made before the trial tribunal or by a re-trial, in the discretion of the body hearing the appeal. . . . parties may, in the discretion of the appellate body, be accorded the right to appear before the appellate body and present argument on the case. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind.)

Other constitutions directed the appeal body to establish procedural rules. The Communications Workers of America, for example, provided:

The Executive Board of the Union shall establish reasonable appeal procedures within the structure of the Union to review complaints of members which allege violation of the constitution, Local Bylaws, or the rights and privileges of members.

Only a few appeal clauses specifically limited the scope of review to issues raised at the trial. For example, the Musicians' constitution stated that appeals "shall be decided only upon the evidence used in the hearing of such matter."

Final Appeal Body. In union constitutions, the power to end litigation by rendering a conclusive decision was usually vested in the body which also had supreme authority in legislative and executive affairs, the union convention (table VI-16). The convention was designated as a court of last resort in 129 of

Table VI-16. Final Appeal Bodies,¹ National and International Union Constitutions, Early 1961

Final appeal bodies	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for appeal -----	153	16,912.3	121	14,225.6	32	2,686.7
Constitutions providing for final appeal to union convention -----	129	14,355.7	105	13,246.0	24	1,109.7
Convention for all appeals -----	109	10,049.1	88	9,547.8	21	501.3
Convention or public review -----	4	1,248.8	4	1,248.8	-	-
Convention or referendum -----	9	1,210.6	7	1,202.2	2	8.4
Convention or president or executive board depending upon the offense or penalty -----	7	1,847.2	6	1,247.2	1	600.0
Constitutions providing for final appeal to other bodies -----	24	2,556.7	16	979.6	8	1,577.0
Executive board -----	17	2,326.7	10	751.4	7	1,575.2
Referendum -----	3	11.4	3	11.4	-	-
Internal appeal board -----	2	213.8	2	213.8	-	-
Other final appeal bodies -----	2	4.8	1	3.0	1	1.8

¹ A final appeal body was defined as the highest body authorized to pass on an appeal before the accused was considered to have exhausted all remedies within the union.

² Under 1 constitution, a local union referendum was held if the executive board reversed a local trial decision, otherwise the executive board's decision was final; and under 1 constitution, the president of the union rendered final appellate decisions.

NOTE: Because of rounding, sums of individual items may not equal totals.

the 153 constitutions having appeal provisions, although in several constitutions it shared this power with another body. Procedurally, review was performed by an appeals committee, usually appointed by the union's executive officers, frequently by the same officer who served in intermediate appellate functions. The committee thus appointed reviewed the record, at times heard arguments of each party, and issued its decision in the form of a recommendation to the convention. The following excerpts summarized this procedure:

The International President shall appoint the following committees . . . Appeals and Grievances . . . The Committee . . . shall hear or receive written statements on the same and report thereon to the International Brotherhood Convention. (International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers)

* * *

Where an appeal is taken to the Convention from a decision of the International Executive Board it shall be heard by the Appeals Committee which shall render a report to the Convention. The motion presented to the Convention will be the adoption of the Committee's report. The usual rules governing debate on such motions will apply, except that the parties to the appeal may speak on the motion even if they are not delegates.

A member of the Appeals Committee may not sit on any case in which he has any interest or which arose in a Local of which he is a member. The President may substitute members to the Appeals Committee for those disqualified.

The President may direct the Appeals Committee to come to the Convention city for the purpose of hearing appeals before the Convention officially begins. (American Federation of Musicians)

Under many constitutions, the accused was permitted to appear at the convention and present his arguments, even if he was no longer a member, as in the following:

Any member, or former member (who was a member at time of holding of previous convention) . . . may appear in person at the convention at his own expense, to argue his written appeal and he shall be restricted in his remarks to the contents of his written appeal. (Operative Plasterers' and Cement Masons' International Association of the United States and Canada)

Of the 20 constitutions which authorized either the convention or an alternate body to render a final decision, 9 provided for a membershipwide referendum and 7 specified varying jurisdictional requirements for appeal to different bodies. In the last group, for instance, the United Textile Workers' general executive board was the court of last resort from local trial decisions and the convention the final appeal body from those made by the general executive board. The Carpenter's constitution vested the general executive board with final determination of cases involving trade rules but left other cases to the convention. Under the remaining constitutions, only cases involving designated penalties could be taken to the convention. For example:

An appeal can be made to the International Executive Board from any decision, of whatever kind, of a Local or any other authority. A further appeal can be made to a convention in any case involving an ultimate fine of \$500 or more, or expulsion from membership in the Federation. . . . (American Federation of Musicians)

Next to the convention, the general executive board (or other governing body) was most frequently designated as the final agency in the judicial process. As the following clauses illustrate, these provisions explicitly restricted further appeals:

In all matters involving officers of subordinate bodies and individual members there shall be no further appeal from the decision of the General Executive Board. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind.)

* * *

The International Executive Council shall thereupon pass upon such appeal, either reversing, affirming, or modifying the action of the Local Union, and its action . . . shall be final and conclusive. (National Association of Broadcast Employees and Technicians)

Two constitutions provided for final review by permanent "appeal boards" within the union. These boards were composed of rank-and-file members, and were independent judicial bodies, free from other executive and legislative responsibilities. The chairman was elected by the members of the board. One of these two constitutions, the Railroad Trainmen's, provided two internal appeal boards. One of the boards, the Board of Trustees and Insurance, was empowered to hear appeals from exceptional cases in which the international president exercised trial jurisdiction. The other board, the Board of Appeals, had authority to hear appeals from all remaining trial decisions. The seven members of this latter board were elected by the convention and served until the following convention. To be eligible for election to this board, a member was required to meet the following qualifications:

Members of the Board of Appeals must hold roster rights in either one of the classes of service represented by the Brotherhood . . . and shall have had not less than 4 years experience as a member of a general grievance committee. . . . General Chairmen . . . (and) Field supervisors will not be eligible for election. . . .

In addition, members were to observe the following provision for impartiality:

A member . . . will not be permitted to represent the Grand Lodge in any other capacity while serving as a member of one of these Boards.

. . . In an appeal in which a Board member's lodge is in direct controversy with some other lodge, he must disqualify himself or be excused by the chairman of said Board. . . .

The second constitution, that of the International Air Line Pilots' Association, provided for a board composed of five regular and three alternate members to be appointed by the union's executive committee from a panel nominated by district councils. For each hearing, the composition of this body was to be determined in the following manner:

. . . either the accused or the party preferring the charges shall have the right of challenging a member of the Hearing and Appeals Board. When such challenge is exercised, one of the alternates selected by the challenger shall become a regular member . . . for hearing the subject case.

Public Review. Four unions, all AFL-CIO affiliates, provided for review of disciplinary action under specified circumstances by outside review boards. These review boards composed of well known individuals selected, in the main, from such fields as religion, law, and education, provided the accused an opportunity to appeal to a body that was separate and free from union control.

Outside review is a relatively recent development in union judicial administration. The first procedure was instituted in 1953, when the Upholsterers'

union amended its constitution to provide for appeal to an outside "appeal board" (table VI-17). By 1959 three other unions had followed suit.³⁴

Table VI-17. Public Review of Union Disciplinary Actions,
National and International Unions, Early 1961

Union	Year provision adopted	Name of review board	Size of board	Term of office	How selected
Upholsterers' International Union (AFL-CIO) -----	1953	Appeal board. ¹	9 members. ²	Unspecified.	By convention.
United Automobile Workers (AFL-CIO) -----	1957	Public review board. ³	7 members.	Period between conventions.	President appoints, subject to approval of executive board and ratification of convention.
Marine Engineers' Beneficial Association (AFL-CIO) -----	1958	National panel. ⁴	3 members.	Unspecified.	By national executive committee.
Packinghouse, Food and Allied Workers (AFL-CIO) -----	1959	Public advisory review commission. ⁵	5 members. ²	Unspecified.	By executive board. ²

¹ Source: General laws, article XXXIV, sections 6 (a) and 6 (b); appendix B.

² Not specified in constitution.

³ Source: Constitution of the international union, article 31.

⁴ Source: National constitution, appendix, constitution for districts and subordinate associations, article VIII, section 7.

⁵ Source: Established in July 1959, by the International Executive Board, and unanimously endorsed and approved (resolution number 3) by the 12th constitutional convention, May 1960.

Provisions relating to three of the four review boards were given constitutional status. The fourth, instituted by the Packinghouse, Food and Allied Workers, was established by the executive board under its authority "to do those things necessary to insure proper and effective administration of the affairs of the International Union." The executive board of the Packinghouse Workers named a five-member commission as the review board.

³⁴ A Senate version of the bill that subsequently became the Labor-Management Reporting and Disclosure Act of 1959 would have required every union to adopt a system of impartial review:

Sec. 101(a) (6) . . . Disciplinary action may be taken unless such member has been . . .

(e) afforded final review on a written transcript of the hearing, by an impartial person or persons

(i) agreed to by such organization and the accused, or

(ii) designated by an independent arbitration or mediation association or board. (Senate Bill 1555, 86th Cong., 1st Sess. (105 Cong. Rec. 5810, April 22, 1959)

The bill finally enacted did not contain this provision. Rather, it placed the responsibility in the hands of union disciplinary authorities and, ultimately, the civil courts.

The Upholsterers' International Union's board was composed of "impartial persons of good repute not having membership or any other direct interest in the (union)." Its jurisdiction was set forth as follows:

The Appeal Board . . . shall have jurisdiction to hear and determine only such appeals as arise from a decision or action of the General Executive Board in a case involving charges of violations of the laws or policies the U.I.U. or of any of its subdivisions, but shall not have jurisdiction to hear or determine any appeal from actions or decisions of the U.I.U., . . . in matters not involving an attempt to impose discipline upon a . . . member or officer of the U.I.U. or of any of its subordinate bodies.

The constitution of the Automobile Workers required that the Public Review Board of that union be composed of "impartial persons of good public repute, not working under the jurisdiction of the UAW." This board's jurisdiction was broader than hearing and deciding discipline cases, extending also to cases involving violation of the union's or the AFL-CIO's Code of Ethical Practices. This review board, with independent investigating power and the authority to act even in the absence of an appeal, was also a monitor of the union's ethical affairs. The preamble to the Public Review Board provision stated the reason for establishing the board to be "for the purpose of insuring a continuation of high moral and ethical standards in the administrative and operative practices of the international union."

The public review body of the Marine Engineers' Beneficial Association, composed of "three public persons," had a narrower grant of authority. Here, the National Panel's jurisdiction was limited to impeachment of elected officers of locals and districts.

The Marine Engineers' constitution authorized its National Panel to determine its own procedures, and gave no other details. The Upholsterers and the Automobile Workers, on the other hand, dealt with procedural matters in considerable detail. Both authorized their boards to elect their own chairmen and permitted hearings to be conducted by panels of the boards. The Automobile Workers' board was authorized to dismiss appeals that "fail to state allegations sufficiently serious" or that were "manifestly frivolous" without granting the accused a formal hearing. Both boards were empowered to assess a penalty against false or malicious accusers. The Upholsterers' Appeal Board was to determine "whether costs of the appeal shall be levied on either party," and the Automobile Workers' Public Review Board was to assess a fine "if the facts indicate the accuser acted in bad faith or with malicious intent and in a willful effort to divide and disrupt the union."

In the Marine Engineers' and the Automobile Workers' unions, the decision of the review board was final and binding. In the Upholsterers' Union, the constitution permitted a further appeal to the union convention in cases involving expulsion:

. . . The appellant may elect either one of these two avenues to appeal but not both, except that in the event the Appeal Board upholds a penalty of expulsion the appellant may . . . make final appeal to the next convention.

On the value of public review boards in disciplinary matters, Archibald Cox, then chairman of the Upholsterers' review board, wrote as follows in the 1959 report of that board:

The value of the impartial Appeal Board cannot be measured by the volume of its business. Its very existence would tend to insure fairness

even though it heard no cases. If there were danger of . . . officers becoming careless or arbitrary in a disciplinary matter, the very existence of the Board would remind them that their conduct was open to scrutiny by outsiders and they would act more carefully in order to avoid the embarrassment of being overruled. Thus unfairness is prevented by self-discipline before the unfairness occurs without the need for Appeal Board proceedings.

Elsewhere in the report, Chairman Cox differentiated between the responsibility of the appeal board and the internal trial process. Quoting from an appeal board opinion:

The primary responsibility for hearing charges against individual members and then determining their guilt or innocence rests within the union . . . It is important that the union retain this responsibility; its performance is an essential part of democratic self-government. Our function is not to substitute ourselves for the union's trial procedures. Our task as an appeal board is to see that the constitution and bylaws were faithfully followed and that the trial was conducted and the decision was rendered without unfairness to the accused. This general inquiry involves three specific issues:

- (1) Was the hearing conducted in a manner calculated to elicit the truth, giving (the accused) notice of the charges and a full opportunity to prepare and present his defense;
- (2) Was there substantial evidence to support the finding . . . ; and
- (3) Did the misconduct warrant the penalty imposed.

Time Limits

Constitutional time limits may serve three judicial purposes (1) to impose a "statute of limitations," (2) to guarantee a speedy trial, and (3) to allow the accused sufficient time to prepare a defense. Excessive delay or excessive speed may both be contrary to fair treatment.

For no union constitution was it possible to determine the precise time limits allowed for the disciplinary process.³⁵ In the first place, time limitations were not widespread at either local or international level proceedings. Of the time limits studied, only the minimum time allowed for the accused to prepare a defense, and the time within which to file an appeal, were specified in a majority of constitutions.

In less than a majority of constitutions, it was found that time was allowed to file charges; to notify the accused of charges; to convene the trial body; to render a decision; to convene the appeal body; or to render a final appellate decision.

Secondly, where certain time limits were specified it was not possible to add the time limits for each phase of the discipline process and arrive at the total allowable time. At least one phase of the trial was not subject to a time limitation. Some constitutions, for instance, required the trial body to convene within a specified number of days after charges were filed, but no limitations were placed on the time in which a decision had to be handed down, while other constitutions required a decision within a specified number of days after hearing, but made no reference to the time within which the hearing was to take place after charges were filed.

³⁵ The term "disciplinary process" includes that period of time from the filing of charges to the final appeal decision.

Even excluding appeals provisions, only the Railroad Trainmen's constitution accounted for the total time between the filing of charges and the trial body's decision, and then only for certain trials, namely, an international level trial of a member on the grounds that he was an "informer, spotter, spy or operative for any detective agency, railroad company, or other person or persons." In such cases, the hearing had to commence within 30 days after the filing of charges; at the close of the hearing, the matter was submitted to the president, who was required to render a final decision within 10 days.

One of the most explicit constitutions was that of the Air Line Dispatchers Association. In that constitution, a hearing had to be held not less than 30 but not more than 60 days from the filing of charges; decisions had to be announced within 30 days of the hearing; appeals had to be taken within 30 days of the date of decision; and appeals had to be decided within the following 30 days. However, the provision for a hearing during the 30- to 60-day period from the filing of charges could be waived by mutual consent.

Time periods were often expressed in general terms, such as "reasonable time" or "without undue delay," which precluded any determination of total elapsed time. For instance, the constitution of the Retail Clerks International Association stipulated:

The trial . . . shall be held as soon as practicable, but no later than thirty (30) days following the date on which charges are filed. . . .

. . . the Trial Board shall, without undue delay, determine the guilt or innocence of the accused . . .

The decision of the Trial Board shall be presented at the next membership meeting.

Maximum Time Allowed to File Charges. Only 21 local and 8 international trial procedures specified the maximum time allowed to file charges after an offense had been committed or became known (table VI-18). Such a

Table VI-18. Maximum Time Allowed to File Charges by Level, National and International Union Constitutions, Early 1961

Maximum time	(Members in thousands)			
	Local procedures		International procedures	
	Unions	Members	Unions	Members
All constitutions specifying time limits to file charges -----	21	3,495.3	8	348.1
30 days -----	6	474.6	1	11.8
60 days -----	7	2,423.9	1	255.4
90 days -----	4	289.2	1	20.0
6 months -----	1	30.4	1	30.4
1 year -----	2	14.3	3	16.8
Other time limits -----	¹ 1	262.9	² 1	13.7

¹ Under this constitution, local union bylaws could provide limitations of not less than 3 years.

² Under this constitution, a 90-day time limit was applicable only to charges involving members of different local unions.

NOTE: Because of rounding, sums of individual items may not equal totals.

requirement, comparable to a statute of limitations in general legal proceedings, aimed to insure that charges would be filed while the facts were still fresh in the minds of parties and witnesses. In addition, they would remove lingering fears of prosecution for past offenses, and thus eliminate possible reprisals that might affect a member's participation in the affairs of his union.

In those few instances where time limits were given, they typically allowed the accuser a period of 60 to 90 days after the offense to file charges. Several constitutions specified shorter and several specified longer periods, but only once did the time allowed to file charges exceed 1 year. The time limit nearly always began to run from the time the accused committed an offense. In a few constitutions, however, the count began at the time the accuser became aware of the offense:

Charges must be submitted . . . within sixty (60) days of the time the complainant first became aware, or reasonably should have been aware, of the alleged offense. (International Union, United Automobile, Aerospace and Agricultural Implement Workers of America)

Maximum Time Allowed to Notify the Accused After Charges Were Filed. Although virtually all trial procedures at the local union level and a considerable number at the international level required that a member be notified that charges were filed against him, few stipulated a time limit within which such notice was required to reach the accused (table VI-19). Of those providing time limits, the period usually began to run from the day charges were filed. A few constitutions, however, specified periods based upon the time a preliminary review body ruled the charges acceptable for trial.

Table VI-19. Maximum Time Allowed to Notify the Accused After Charges Were Filed by Level, National and International Union Constitutions, Early 1961

Maximum time	(Members in thousands)			
	Local procedures		International procedures	
	Unions	Members	Unions	Members
All constitutions providing for notice that charges had been filed -----	129	15,667.8	71	10,261.4
Constitutions providing maximum time limits ---	52	8,034.1	22	1,706.1
Specific time periods -----	19	3,840.1	5	75.3
3 days -----	1	200.1	-	-
5 days -----	7	366.9	-	-
7 days -----	9	3,258.3	-	-
10 days -----	-	-	1	35.0
14 days -----	1	3.0	-	-
15 days -----	1	11.8	1	11.8
30 days -----	-	-	3	28.5
General time periods -----	25	3,839.5	17	1,630.8
Other time periods -----	1 ¹ 8	354.5	-	-
Constitutions providing no time limits -----	77	7,633.6	49	8,555.3

¹ Under 6 constitutions, time limits were operative from the time charges were accepted for trial, and were 5 days, 7 days, 10 days, 1 week after acceptance, and at the same meeting the report was rendered; under 1 constitution, notice was given a week in advance of trial; and under 1 constitution, a 21-day time limit applied to charges against members but no reference was provided for charges against local officers.

NOTE: Because of rounding, sums of individual items may not equal totals.

In local union trial procedures, a slightly larger number of constitutions provided for general than for specific periods. General limitations required notice "promptly," "within a reasonable time" or similarly indefinite periods. A few of these provisions indicated that notices were to be transmitted on the same day the charges were filed. For example, the International Typographical Union's constitution required the local president to "immediately cause to be delivered to the accused member a complete copy of the charges as filed," and the Brotherhood of Railroad Trainmen's trial procedure required notice "at the same time" as charges were filed. Specific limitations stated the maximum number of days allowed to communicate notice to the accused. Nearly all members covered by these clauses in local trial procedures were guaranteed notice within 7 days after charges were filed, and no provision allowed the local union more than 15 days to notify the accused.

Time limits for notifying the accused were less prevalent in international trial procedures. Less than one-third of the constitutions with a notice requirement specified that the notice be delivered within a given time period. In virtually all cases these requirements were expressed in general terms, by stipulating "reasonable" time or similarly indefinite periods.

Time Allowed to Convene the Trial Body. Forty-nine local and 33 international trial procedures specified the period within which the trial body must begin hearings. In effect, these requirements were designed to free the accused from the stigma of charges and threats of disciplinary action if the trial body failed to hear the case within the allotted time. For instance, the Rubber Workers' constitution ordered charges dismissed without prejudice to the accused if they were not "called to trial within 30 days of the date the trial board was selected." These limitations usually began to run at the time charges were filed, but a substantial number were related to other steps in the trial procedure.³⁶ Sixty days was the longest specific time period allowed to convene the trial body (table VI-20).

Table VI-20. Maximum Time Allowed to Convene Trial Body¹ by Level,
National and International Union Constitutions, Early 1961

Maximum time	(Members in thousands)			
	Local procedures		International procedures	
	Unions	Members	Unions	Members
All constitutions specifying maximum time limits to convene trial bodies -----	49	8,582.6	33	3,676.9
Specific time periods -----	35	4,864.9	16	1,480.4
15 days -----	9	661.7	5	660.4
30 days -----	19	2,866.1	7	601.1
60 days -----	7	1,337.1	4	218.9
General time periods -----	14	3,717.7	17	2,196.5
Reasonable time -----	12	3,391.7	13	1,975.8
Next meeting -----	2	326.0	4	220.7

¹ Most time limits began at the time charges were filed. In several constitutions, however, the time to convene was related to the time the accused was notified, the time the preliminary body reported, the time the accused was suspended, or other events in the trial procedure. The number of each of these reference points is shown in appendix tables C-3 and C-4.

NOTE: Because of rounding, sums of individual items may not equal totals.

³⁶ See appendix tables C-3 and C-4.

General limitations were stated in 14 constitutions for the local trial level and in 17 constitutions for the international trial level. These limitations required the trial body to begin hearings "within a reasonable time," "as soon as practicable," or "with reasonable dispatch."

Minimum Time Allowed for the Accused to Prepare a Defense. In 92 instances at the local level, and 57 at the international level, union constitutions specifically provided for a minimum time interval between the date notice of trial was sent and the date set for convening the trial (table VI-21). A smaller number of constitutions (24 for local trial procedures and 12 for international trial procedures) provided for notice of trial, but required no minimum time between the sending of such notice and the convening of the trial. In other constitutions, while notice of trial was not specifically required, it might well be that in practice notice that charges had been filed included notice of the date of trial.

Table VI-21. Minimum Time Between Notice of Trial and Convening the Trial Body by Level, National and International Union Constitutions, Early 1961

Minimum time	(Members in thousands)			
	Local procedures		International procedures	
	Unions	Members	Unions	Members
All constitutions providing for notice of trial ---	116	14,936.3	69	9,879.1
Constitutions specifying minimum time periods -----	92	13,444.5	57	8,591.3
Specific time periods -----	72	10,643.6	37	4,723.0
3 days -----	1	28.5	-	-
5 days -----	13	1,472.1	8	709.9
7 days -----	13	2,374.1	3	277.4
10 days -----	21	3,131.4	12	1,982.3
14 days -----	8	1,793.1	4	506.6
15 days -----	10	1,727.9	3	215.3
20 days -----	-	-	2	6.7
30 days -----	6	116.5	4	1,016.9
40 days -----	-	-	1	8.0
General time periods -----	17	2,771.3	17	2,776.0
Reasonable time -----	15	1,886.3	17	2,776.0
One meeting before trial -----	2	885.0	-	-
Other time periods -----	¹ 3	29.6	² 3	1,092.4
Constitutions without minimum time period provisions -----	24	1,491.8	12	1,287.8

¹ Under 1 constitution, the time was 10 days if accused was notified in person, but 14 days if notified by mail; in 2 constitutions, time limit differed for members and local officers. 1 constitution provided 10 days for local officers and 7 days for members, and 1 provided 14 days for local officers but did not specify the time for members.

² Under 1 constitution, the time limit was 10 days if the accused was notified in person, but 12 days if notified by mail; under 2 constitutions, a different time limit applied for special offenses. 1 provided 5 days in trials of dual unionism but a "reasonable" time in other trials, and 1 provided 2 days in "emergencies" but 10 days for other trials.

NOTE: Because of rounding, sums of individual items may not equal totals.

Most local union trial procedures (72) and a substantial number (37) of international trial procedures expressed this time period as a specific number of days. Typically, at least 10 days elapsed after notice of trial and before hearings

began; rarely was this period more than 30 or less than 5 days. These provisions often stated the purpose of this limitation, as in the following illustration:

A copy . . . (of the charges) . . . shall be furnished by the lodge to the accused member . . . at least ten days in advance of trial so that he may be advised of the nature of the charge and may be enabled to prepare his defense. (International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers)

Several constitutions expressed this limitation in a general way, occasionally using language similar to that used in section 101(a)(5)(B) of the Labor-Management Reporting and Disclosure Act. For instance, one constitution stipulated that:

The Trial Committee shall not convene until the accused has a reasonable opportunity to prepare his case. (International Organization of Masters, Mates and Pilots)

Occasionally, different time limits applied in specified situations. Two constitutions provided expedited procedures for charges involving certain offenses. The Hotel & Restaurant Employees' constitution allowed as few as 48 hours to prepare a defense to charges alleging "a situation involving a serious danger" to the union, but not less than 10 days for other offenses. The United Mine Workers' constitution, on the other hand, provided for "due notice" of trial for most offenses but guaranteed not less than 5 days for charges that alleged "fomenting, leading, or encouraging a dual union or dual movement within" the union.

One constitution, that of the Marine Engineers' Beneficial Association, provided different time limits depending upon the method used to notify the accused, and his location, as follows:

. . . In case of personal service not less than ten; in case of service by mail not less than twenty days thereafter. Should the accused reside beyond this jurisdiction, thirty days shall be allowed, to appear and answer charges, or should the accused be employed in any service whereby he cannot personally be brought to trial, such time shall be granted as may be necessary in such case not exceeding sixty days.

In a few constitutions, the accused was permitted to gain additional time to prepare his defense by requesting a postponement of the date set for trial. For instance, the constitution of the Sheet Metal Workers' International Association authorized postponing the trial "for a reasonable period of time if valid reasons are presented to the trial committee." In other constitutions, provisions similar to the one cited below governed:

Should the accused be unable . . . to attend the hearing at the time and place designated, he shall, at the discretion of the Executive Board or committee, and upon application, be granted a postponement or continuance to some place and date agreed upon. (International Alliance of Theatrical Stage Employes and Moving Picture Machine Operators of the United States and Canada)

Maximum Time Allowed to Render a Final Decision. This time limit, just as time limits on convening the trial body, began to run at different phases

of the trial. At both the local and international level, the most common reference point was from the time the trial body convened. In a few constitutions, however, it was the day the hearing closed. For example:

The decision of the Trial Board shall be rendered promptly, and in no event . . . later than thirty days following the date when hearing is held. (International Association of Marble, Slate and Stone Polishers, Rubbers and Sawyers, Tile and Marble Setters' Helpers and Marble Mosaic and Terrazzo Workers' Helpers)

* * *

A decision shall be rendered within fifteen (15) days after the case is closed before the original tribunal. (Laundry, Dry Cleaning and Dye House Workers International Union, Ind.)

Again, it should be emphasized that the specification of a time limit for a final decision was not indicative of total time elapsed from the time of the filing of charges.

Approximately one-third of the local union trial procedures studied specified the time allowed to render a decision. Local union trial procedures, as noted earlier, frequently involved two phases: First, a hearing before the trial body, followed by a final determination by the local union membership. Although some constitutions (20) specified the total time which may elapse until a verdict is reached, a larger number (26) specified only the time allowed to consider and resolve the trial body's report (table VI-22). These provisions required the final authority to render a decision at the same meeting the findings were presented or, more often, at the next meeting after the trial body reported its findings.

Table VI-22. Maximum Time Allowed Local Level Trial Bodies to Render a Decision, National and International Union Constitutions, Early 1961

Maximum time	(Members in thousands)					
	Total studied		Final decision body			
	Unions	Members	Trial body		Another body	
			Unions	Members	Unions	Members
All constitutions with time limits to render decision -----	46	7,758.3	12	1,895.4	34	5,862.9
Time from trial to final decision -----	20	4,008.7	12	1,895.4	8	2,113.3
20 days -----	1	1.0	1	1.0	-	-
30 days -----	3	144.7	3	144.7	-	-
60 days -----	2	2,445.2	1	1,418.2	1	1,027.0
Reasonable time -----	8	999.6	3	37.8	5	961.8
Next meeting -----	4	208.2	2	83.7	2	124.5
Other -----	1 2	210.0	2	210.0	-	-
Time from trial body's report to final decision -----	26	3,749.7	-	-	26	3,749.7
Next meeting after report rendered -----	13	2,142.6	-	-	13	2,142.6
Same meeting report rendered -----	11	1,488.6	-	-	11	1,488.6
Other time periods -----	2 2	118.4	-	-	2	118.4

¹ Under 1 constitution, a final decision was required within 10 days in cases of raiding and secession; in 1 constitution a final decision was rendered at the same meeting at which the preliminary review body reported.

² Under 1 constitution, the final body decided within 30 days in all trials; and under 1 constitution, the final body decided within 30 days if the accused was suspended.

NOTE: Because of rounding, sums of individual items may not equal totals.

Several of the 20 constitutions that specified the total time allowed from trial to final decision included separate limitations for the trial body and the final decision body, while others provided one limitation for all bodies, as in the following provision:

All decisions . . . shall be made . . . within sixty (60) days of the date the hearing of trial commenced, unless otherwise ordered by the General Executive Board. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Ind.)

The time allowed to render a final decision was rarely specified in international level trial procedures (table VI-23). Most of these limitations (11) applied in all trials, while the remaining few (7) were operative only if the accused was suspended prior to trial. Specific time periods, ranging from 5 to 120 days, were more prevalent than indefinite "reasonable time" limitations. Typically, these specific time period limitations required the trial body to render a decision within 15 or 30 days.

Time Consumed by Appellate Procedure. Not only was it usually impossible to calculate the specific amount of time that elapsed from the initial filing of charges to the final appeal, it was also usually impossible to determine the length of time consumed by the appellate procedures alone, that is, from the trial decision to the final appeal. This is attributable to the fact that most constitutions did not provide a total appeal time; likewise, they did not specify the amount of time allowed to exhaust each step in the appellate procedure. Only the time allowed to file an appeal was specified in a majority of constitutions (table VI-24). Twenty constitutions specified the time within which the appellate body (or bodies) were to be convened, and 28 specified the total period for deciding the appeal.

With regard to the filing of appeals, 30 days was the most prevalent period specified, as in the following constitution:

Every appeal must be taken within thirty (30) days from the date the decision of the lower tribunal is rendered. (Brotherhood of Painters, Decorators and Paperhangers of America)

While explicit limitations on the time allowed to convene an appeal body or render an appellate decision were infrequent, nearly all constitutions specified the frequency of meetings for the general executive board, one of the common appeal bodies. The executive boards usually met at specified intervals to decide appeals and transact union business. Yearly meetings were not uncommon, but quarterly or semiannual meetings were more typical (table VI-25). In a small number of constitutions, the board would meet at irregular intervals, generally when called by the international president or by the members of the general executive board.

Frequently, however, the executive board could be called into session at other than regular intervals if the pressure of business warranted it. For example, the Railway and Steamship Clerks' constitution provided:

. . . (the appeal shall) say whether it is of such nature as to demand a special meeting of the Grand Executive Council. The (Secretary) shall tabulate the opinion of the members of the (council) and if a majority are in favor of a special meeting, he will issue a call for the same. Otherwise, the appeal will be handled at its next regular session.

Table VI-23. Maximum Time Allowed International Level Trial Body to Render a Final Decision, National and International Union Constitutions, Early 1961

(Members in thousands)						
Maximum time	Total studied		Time limit applied in all trials		Time limit applied only if the accused was suspended	
	Unions	Members	Unions	Members	Unions	Members
All constitutions with time limits to render decision -----	18	3,125.3	11	1,982.1	7	1,143.2
Specific time periods -----	10	2,190.4	6	1,710.3	4	480.0
5 days -----	1	62.3	1	62.3	-	-
15 days -----	3	113.9	1	13.7	2	100.2
30 days -----	3	384.0	1	4.2	2	379.8
40 days -----	1	200.1	1	200.1	-	-
60 days -----	1	1,418.2	1	1,418.2	-	-
120 days -----	1	11.8	1	11.8	-	-
Reasonable time -----	7	914.6	4	251.4	3	663.2
Other time periods -----	1	20.3	1	20.3	-	-

¹ Under 1 constitution, the trial body determined the guilt or innocence of the accused, but a different body assessed the penalty. The trial body decided within 15 days after hearing the charges; no reference was made to the time allowed the final body.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table VI-24. Time Limits in Appeal Procedures, National and International Union Constitutions, Early 1961

(Members in thousands)						
Time limits	File appeal		Convene appeal body		Decide the appeal	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for appeal -----	153	16,912.3	153	16,912.3	153	16,912.3
Constitutions providing time limits -----	125	15,428.2	20	4,269.4	28	4,489.4
Time limits applied to all bodies -----	101	13,530.5	10	2,145.2	14	2,505.3
Specific limitations -----	94	13,175.7	-	-	7	174.6
General limitations -----	2	60.0	10	2,145.2	6	2,171.6
Specific and general limitations -----	5	294.7	-	-	1	159.1
Time limits applied to some but not all bodies -----	24	1,897.8	10	2,124.2	14	1,984.1
Specific limitations -----	24	1,897.8	4	646.4	7	342.5
General limitations -----	-	-	3	935.6	7	1,641.7
Specific and general limitations -----	-	-	3	542.2	-	-
Constitutions not providing time limits -----	28	1,484.1	133	12,642.9	125	12,422.9

NOTE: Because of rounding, sums of individual items may not equal totals.

Table VI-25. Frequency of International Executive Board Meeting,
National and International Union Constitutions, Early 1961

Frequency of meetings	Total unions	Qualifications on frequency of meetings			
		Provision for special meeting	Provision for waiving formal hearing	Provision for special meeting and waiving formal hearing	No reference to qualifications
All constitutions providing for appeal -----	153	58	22	37	36
Constitutions providing for meeting at regular intervals -----	100	51	7	33	9
Every 1 month -----	4	4	-	-	-
Every 2 months -----	2	1	1	-	-
Every 3 months -----	26	13	-	9	4
Every 4 months -----	11	6	-	5	-
Every 6 months -----	31	14	4	11	2
Every 12 months -----	22	13	-	6	3
Every 24 months -----	2	-	-	2	-
Other regular intervals -----	12	-	2	-	-
Constitutions providing for meetings at irregular intervals -----	37	3	13	3	18
Called by international president -----	11	-	5	1	5
Called by executive board -----	8	1	1	1	5
Called by either president or executive board -----	18	2	7	1	8
Constitutions not providing frequency of meeting -----	16	4	2	1	9

¹ Under 1 constitution, meetings held every 6 months if finances permitted, but no later than 9 months in any event; and under 1 constitution, meetings were held before and after each convention and 3 times between meetings of biannual convention.

Table VI-26. Frequency of Conventions, National and International Union Constitutions, Early 1961

Frequency of conventions	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All constitutions providing for final appeal to the convention -----	129	14,355.7	105	13,246.0	24	1,109.7
Yearly -----	20	1,015.9	10	727.4	10	288.5
Every 2 years -----	44	4,684.4	39	4,623.5	5	60.9
Every 3 years -----	19	1,094.3	17	1,031.7	2	62.6
Every 4 years -----	28	5,527.3	26	5,448.5	2	78.8
Every 5 years -----	7	556.9	6	553.9	1	3.0
Set by referendum -----	3	751.6	3	751.6	-	-
Set by convention or governing body -----	2	600.3	1	.3	1	600.0
Other frequencies -----	¹ 5	123.2	2	107.3	3	15.9
No reference to frequency of convention -----	1	1.9	1	1.9	-	-

¹ Under 1 constitution, a general meeting was held monthly except in July and August; under 1 constitution, a body combining the functions of convention and general executive board met 3 times a year; under 2 constitutions, conventions were held twice a year; and under 1 constitution the convention met every 18 months.

NOTE: Because of rounding, sums of individual items may not equal totals.

A smaller number of constitutions permitted the board to circulate the appeal and render a decision without assembling in a formal hearing. For instance, the following provision authorized the board to act on an appeal by correspondence:

When an appeal from any decision of the I. P. is made to the I. E. C. then the I. E. C. shall render a decision at its next regular meeting. However, the I. E. C. may, when it feels such is practical, act on appeal by correspondence. (International Brotherhood of Electrical Workers)

Numerous qualifications, in addition to those discussed above, frustrated any attempt to determine the typical time allowed to process an appeal. The few constitutions that provided explicit time limits for some, rarely specified an overall indication of the time allowed for all steps of the appeal procedure. Limitations commonly applied to only one of several appeal bodies. General limitations, such as "a reasonable time" often regulated the length of time allowed to convene the appeal body or to render an appellate decision. However, one time limitation, the frequency of conventions, provides a gross indication of the absolute maximum time that could elapse in the large number of procedures (129) in which the convention exercised final appellate authority. The period between conventions ranged from a few months to 5 years, with biennial conventions most frequently specified (table VI-26).

Chapter VII. Discipline of International Officers

All but 9 of the 158 constitutions studied provided for one or more methods of disciplining international officers (table VII-1). Impeachment, the most common type of constitutional procedure, was provided by 125 of the constitutions. Recall and summarily imposed discipline, two other methods of discipline, were far less frequently provided for, occurring in 36 and 43 constitutions, respectively.

Table VII-1. Method of Disciplining National Officers, National and International Union Constitutions, Early 1961

Type of provisions	(Members in thousands)					
	Total		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions -----	158	16,923.1	122	14,228.8	36	2,694.3
Constitutions providing for discipline ---	149	16,701.3	117	14,015.0	32	2,686.3
Impeachment -----	82	9,166.9	69	7,523.1	13	1,643.8
Recall -----	13	892.5	6	640.8	7	251.7
Summary discipline -----	6	118.4	4	108.4	2	10.0
Impeachment and recall -----	11	2,196.4	9	2,136.1	2	60.3
Impeachment and summary discipline -----	25	2,522.3	21	2,511.8	4	10.5
Recall and summary discipline -----	5	227.8	4	127.8	1	100.0
Impeachment, recall, and summary discipline -----	7	1,576.9	4	966.8	3	610.1
Constitutions not providing discipline provisions -----	9	221.8	5	213.8	4	8.0
Constitutions covering: ¹						
Impeachment -----	125	15,462.5	103	13,137.8	22	2,324.6
Recall -----	36	4,893.5	23	3,871.5	13	1,022.0
Summary discipline -----	43	4,445.5	33	3,715.0	10	730.5

¹ Nonadditive.

NOTE: Because of rounding, sums of individual items may not equal totals.

The characteristics of summary discipline have been previously described. (See chapter II.) Impeachment procedures, as the term is used in this report, require the filing of charges against an international officer before a tribunal, resulting in a hearing, or trial, before such body. Recall is a procedure by which an officer could be removed from office directly by a vote of the membership.

In terms of procedure, the most significant difference between recall and impeachment was that impeachment provided for a hearing or trial whereas recall usually did not. However, the line between the two procedures sometimes appeared indistinct. This was especially true in the 22 of the 125 constitutions

containing impeachment provisions where the constitution provided that the decision or recommendation of the trial body be submitted to a referendum vote for approval or disapproval. However, although these constitutions provided for a referendum vote, as is the case in recall, they were considered as impeachment provisions, since the determining factor was taken to be the existence of trial machinery, and not the locus of the final decision.

Approximately two-thirds of the 149 constitutions containing provisions for the discipline of international officers specified one particular method to the exclusion of the others. Of these, the great majority (82) provided for impeachment as the only means of discipline. On the other hand, seven constitutions, covering slightly over 1.5 million members, provided for all three types of discipline. The remainder (41) provided for two of the three procedures.

In general, impeachment appears to carry a connotation of punishment for wrongdoing, whereas recall seems more of a means of removing an officer because of dissatisfaction with the way he performs his job. Such a hypothesis is supported by the fact that while two-thirds of the impeachment provisions specified the grounds on which impeachment was to be based, only 17 percent of the recall provisions specified grounds. One constitution even referred to the "privilege" of recall:

It shall be the privilege of the Associations of the League to recall League officers. (Pattern Makers' League of North America)

There were, however, many exceptions, particularly in those constitutions which did not provide for both recall and impeachment.

On the whole, there were no marked differences between unions affiliated with the AFL-CIO and those unaffiliated. For both groups, the most prevalent type of provision called for impeachment as the exclusive means of imposing discipline.

Summary Discipline of International Officers

As mentioned in chapter II, constitutional provisions permitting summary discipline for other than nonpayment of financial obligations³⁷ were found to apply primarily to local union officers. Such provision much less frequently applied to international officers. Moreover, only seven constitutions limited summary discipline exclusively to international officers (table VII-2).

Grounds and Penalties. The grounds for which summary discipline could be imposed upon international officers were generally similar to those specified for local union officers and/or members. In the earlier section (chapter II) discussing summary discipline as applied to local officers and members, more than 40 grounds were found and these were grouped into major classifications including job discipline, union loyalty, internal politics, and violation of union law. Among the 43 constitutions with summary discipline provisions applicable to international officers, the specified grounds were fewer, but the provisions covered almost as wide a range of violations.

³⁷ Summary discipline for nonpayment of financial obligations as it applied to international officers was not studied, as this is most applicable to rank-and-file members.

Table VII-2. Appeals from Summary Discipline of International Officers, National and International Union Constitutions, Early 1961

(Members in thousands)

Type of appeal provisions	Total		Summary discipline applicable to—					
			International officers only		International and local officers		International and local officers and members	
	Unions	Members	Unions	Members	Unions	Members	Unions	Members
All constitutions with summary discipline for international officers -----	43	4,445.6	7	183.3	12	475.3	24	3,786.9
Summary discipline automatically reviewed -----	2	604.0	-	-	-	-	2	604.0
Appeal may be taken from summary action -----	18	3,010.3	-	-	4	302.0	14	2,708.3
No reference to appeal from summary action -----	23	831.2	7	183.3	8	173.3	8	474.6

NOTE: Because of rounding, sums of individual items may not equal totals.

The seven constitutions in which summary discipline was applicable only to international officers listed only two grounds. Five of the seven subjected officers to discipline if they missed more than a specified number of board meetings, as for instance the Window Glass Cutters League of America:

The National President shall declare vacant any office of an Executive Board Member who is absent without acceptable cause for two consecutive meetings, and shall fill such vacancy as heretobefore provided.

The other two listed malfeasance and nonfeasance in office. Under these seven constitutions, the office of the violator was to be declared vacant, although, according to one, the officer so removed was eligible to be a candidate to succeed himself.

In the 36 constitutions which allowed summary discipline against international officers as well as against local officers and members, the grounds were varied. Each of the following grounds appeared once: Dual unionism, strike-breaking, secession, resort to courts, and bringing false charges. Under two constitutions, discipline could be imposed for excessive absenteeism from board meetings, and another specified discipline for another form of absenteeism, as follows:

Any member of said (trial) Court who absents himself without good and sufficient cause, or who, while attending said court, shall fail or refuse to vote on the issue before it, shall be subject to a fine . . . or expulsion from office, or may be subject to any other disciplinary action which the Executive Board may order. (Stove Mounters' International Union of North America)

Other specific grounds included misappropriation of funds, membership in the Communist Party, and conviction for a serious crime.

In addition to the above mentioned specific grounds, four types of general grounds were noted. The general malfeasance clause is exemplified by the following:

In case of nonperformance of duties or disability or incompetence of any International Vice President or the International Secretary or International Treasurer, the International President has power to remove such officer, with such removed officer having the right to appeal to the International Executive Council. (International Brotherhood of Electrical Workers)

A second type of general provision was the "catchall" clause, such as that found in the constitution of the International Brotherhood of Pulp, Sulphite and Paper Mill Workers, where an international officer could be summarily removed for "just cause."

Union law violation, the third general ground, was provided in seven constitutions. Under the constitution of the International Association of Bridge, Structural and Ornamental Iron Workers, for example, the International President had the power to suspend any officer for failing to "promptly comply with his instructions."

A fourth type was one containing a combination of general grounds, as typified by the following clause:

The International President shall have authority should he become convinced that any Local Union officer or International officer or representative is derelict in the performance of any duty, or has been guilty of any dishonest or disreputable act, to suspend such officer or representative from his official position for a period not to exceed ninety (90) days, such officer or representative having the right to appeal to the International Executive Board. (United Rubber, Cork, Linoleum and Plastic Workers of America)

Among the penalties imposed as a result of summary discipline, the most common was removal from office. In a number of constitutions, the term "suspension" was specified as the penalty, but it was not clear whether suspension of the international officer involved membership as well as office.

Fines and expulsion were specified in only a few constitutions. Provisions which left the penalty to the discretion of the disciplining agent were also infrequent.

Appeals from Summary Action. Slightly less than half of the constitutions which permitted summary discipline of international officers provided for an appeal from such discipline (table VII-2).

Only two constitutions stipulated automatic review. The constitution of the United Mine Workers of America (Ind.), one of these two, provided:

All appointments, suspensions, and removals from office done by the President shall be subject to the approval of the International Executive Board.

In the other constitution, for the Railroad Yardmasters of America, there appeared to be provision for an automatic review by the convention:

The Executive Board shall . . . have authority to censure, suspend, or expel any officer or member who fails or refuses to perform the duties for which he was elected or appointed . . . Any officer or member suspended will be without pay, pending final action of the General Assembly.

The 23 constitutions which did not specifically provide for an appeal included the 7 which limited summary action exclusively to discipline of international officers.

Impeachment of International Officers

Impeachment provisions were found in 125 constitutions, covering more than 15 million members. In 119 of these, such provisions applied to all elected international officers. In three others, the international president was specifically excluded; in three, he was the sole officer subject to impeachment.

Grounds. Approximately a third of the constitutions which contained impeachment provisions made no reference to the grounds on which such proceedings could be based (table VII-3). For example, one constitution provided:

The charges shall be defined plainly in writing, and a copy sent to each and every member of the Board . . . No charge other than those made in writing, as aforesaid, shall be considered . . . (Amalgamated Meat Cutters and Butcher Workmen of North America)

Table VII-3. Grounds for Impeaching National Officers, National and International Union Constitutions, Early 1961

(Members in thousands)

Type of grounds	Total		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All impeachment provisions -----	125	15,462.5	103	13,137.8	22	2,324.6
Constitutions providing reference						
to grounds -----	83	8,397.3	67	7,510.1	16	887.2
General grounds only -----	52	4,781.3	41	4,669.1	11	112.2
Specific grounds only -----	1	26.6	1	26.6	-	-
General and specific grounds -----	30	3,589.4	25	2,814.4	5	775.0
Constitutions not providing reference						
to grounds -----	42	7,065.2	36	5,627.7	6	1,437.4

NOTE: Because of rounding, sums of individual items do not necessarily equal totals.

In such cases, presumably, it was the responsibility of the trial body to weigh the charges according to its own standards of what constituted impeachable conduct. Without any constitutional guides, individual members, local unions, and international officers would probably proceed on the basis that the purpose of the impeachment provisions was to protect the union against major offenses.

Of the 83 constitutions which contained specific references, the majority referred to general grounds only, such as "violation of the constitution," "unbecoming conduct," "malfeasance," and "misfeasance." Typical of these provisions was the following:

Any elective or appointive officer, Executive Board member, or business agent of a Local Union, Joint Board, District Council, or General Executive Board may be removed from his office or his position for any violation of this Constitution or the bylaws of the body which he serves, or because of the commission of any act which may be calculated to impair the usefulness of the Union, or which is unbecoming to the dignity of the office or position held by him. (International Ladies' Garment Workers' Union)

Only specific grounds were listed in one constitution, that of the American Flint Glass Workers' Union of North America. Under that constitution, an Executive Board member who appeared at a conference between employers and the union in an intoxicated condition was subject to impeachment.

In the remaining 30 constitutions which specified grounds, both general and specific grounds were listed. For example, the National Brotherhood of Packinghouse Workers (Ind.) specified:

An offense against this Constitution or the general good and welfare of the National Brotherhood . . .

as a general ground for impeachment, and also made the impeachment machinery available against an officer who:

. . . believes in or is a member of or supports any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

In these 30 constitutions, both the general and specific grounds mentioned were, in the main, similar to those discussed earlier in this study. (See chapter III.)

Assuming that general grounds would also have sufficed in most if not all of the 42 constitutions not specifically referring to grounds, it would have been possible to initiate impeachment proceedings on general grounds in virtually all of the 125 constitutions with impeachment provisions. Initiators thus had relatively wide latitude in bringing charges against international officers; accused officers, in turn, relied upon the "due-process" provisions of union constitutions for protection against unfounded charges.

Preliminary Review. Sixteen of the 125 constitutions providing for impeachment of international officers made provision for a preliminary review as a first step in the impeachment procedure. Most of these provisions, however, were not specific as to what this preliminary review involved. Some, such as the constitution of the International Photo-Engravers' Union of North America, referred to "investigation":

Any officer of the International . . . may be impeached by the Executive Council. After investigation, impeachment proceedings may be conducted . . .

Others used no like term, but simply indicated discretion on the part of the reviewing agent:

Charges . . . shall be . . . filed . . . with the General President, who shall, by inspection, determine whether they be of a nature to justify trial . . . If, in his opinion, the charges be such as to justify a trial, he shall . . . (trial procedure outlined) (International Association of Bridge, Structural and Ornamental Iron Workers)

In all 16 constitutions, there was language to indicate that the reviewing agent could drop charges at his discretion.

In two cases, whether or not a preliminary review would be undertaken depended upon who had initiated charges. The constitutions of the Brotherhood of Railroad Trainmen and the Association of Railway Trainmen and Locomotive Firemen (Ind.) provided for a preliminary review if charges were brought by a member, but the trial was automatic if charges were brought by an international officer.

In only 2 of the 16 constitutions was the decision of the screening body subject to automatic review by another body. Thus, the constitution of the American Radio Association stipulated that:

The National Council shall approve or disapprove the charges and shall submit their findings to one membership meeting at each Branch office for approval . . .

A similar provision was found in the constitution of the National Maritime Union of America:

The National Office shall submit its decision to either accept or reject the charges to the next regular or special membership meeting at the New York Headquarters of the Union for approval or rejection.

In the other 14 constitutions, a decision to drop the charges could end the case, since no other steps to be automatically taken were described. In two constitutions only, those of the United Transport Service Employees and the Stage Employees and Moving Picture Machine Operators of the United States and Canada, was there a specific right to appeal a decision to drop charges:

The accuser of any International officer, organizer, or any employee of the International Union must present his charge in writing to the International President . . . If the International President considers the charge not to have merit, the accuser has the right to appeal to the General Executive Board. If the accuser or the accused is dissatisfied with the decision of the General Executive Board, either shall have the right to appeal to the next Biennial Convention. (United Transport Service Employees)

The right of appeal by an accuser from a decision to drop charges at this preliminary review level was uncertain in other constitutions. In some, the language used in the appeal section was broad enough to appear to make it possible for an appeal to be taken from such decisions. In others, the scope

of the appeal section was unclear. In the following clause, for example, it appears to be a matter of interpretation as to whether the decision to drop charges was included in the appeal provision:

The International Executive Board, if it finds that the charges have sufficient merit to warrant further proceedings, shall furnish the accused with a copy of the charges . . . The International Executive Board may, for good cause, suspend the accused from his duties as an Officer, pending determination of the charges against him . . . The International Executive Board shall hold a hearing . . . Decisions of the Board made hereinafter may be appealed to the next International Convention. (Commerical Telegraphers' Union)

In some of the other constitutions, the appeal provisions seemed to apply exclusively to decisions of the trial body, and not to decisions to drop charges made at preliminary review:

Either party to the trial can appeal from the decision of the Executive Board to the General Assembly . . . (Emphasis added) (Railroad Yardmasters of America)

In two of the 16 unions, the American Radio Association and the International Photo-Engravers' Union of North America, the appeal provisions were not applicable to international officers. As mentioned above, however, the American Radio Association did provide for a vote of the membership on decisions to drop charges.

In general, these 16 constitutions were vague as to grounds for removal of international officers. Seven of the 16 made no reference to grounds for impeachment; 7 others mentioned general grounds only.

Only one constitution, that for the United Packinghouse, Food and Allied Workers, also provided for recall. Thus, in constitutional terms, dismissal at the preliminary review level might well leave the member or local bringing charges without a further means of airing complaints against the officer concerned.

Trial Body. If charges are not dropped in a preliminary review, the next step in impeachment procedures is to proceed to trial. In 90 constitutions, the executive board was named as the trial body under all circumstances (table VII-4). Nine other constitutions named the executive board as the body which would conduct the trial in most instances, but made provision for another body to conduct the trial under special circumstances. For instance, the International Molders' and Foundry Workers Union of North America constitution provided for a trial by the executive board when charges are preferred by a local union, but specified a trial by the Board of Trustees (consisting of some but not all of the members of the executive board) under the following circumstances:

Trustees . . . shall have supervision over all officers and shall have power to remove any officer for incompetency or unfaithfulness, after being duly charged, tried, and found guilty. Such action to be taken only by consent of five members of the Executive Board.

Other unions made a distinction as to trial body not on the basis of who preferred charges, but rather on the basis of who was charged. For example, the Brotherhood of Maintenance of Way Employees' constitution named the executive board as the body to try international officers other than members of the executive board. If charges are preferred against a board member, the trial was to be conducted by an appeal board, consisting of all elected international officers except the one being tried.

Six of these nine constitutions named the convention as the trial body under certain circumstances. One method, as in the case of The Order of Railroad Telegraphers, was to give the executive board the option to try the case

Table VII-4. Trial Body in Impeachment Proceedings, National and International Union Constitutions, Early 1961

(Members in thousands)

Trial body	Total		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All impeachment provisions -----	125	15,462.5	103	13,137.8	22	2,324.6
Executive board -----	90	11,395.6	75	9,169.4	15	2,226.2
Executive board ordinarily; other governing body in special cases -----	3	1,006.2	3	1,006.2	-	-
Executive board ordinarily; convention in special cases -----	6	538.6	6	538.6	-	-
Trial committee--ad hoc -----	13	1,457.1	9	1,445.6	4	11.6
Trial committee--permanent -----	3	510.9	3	510.9	-	-
2 governing bodies in joint session -----	2	8.5	1	4.2	1	4.3
Convention -----	2	67.9	1	41.3	1	26.5
Convention or outside body ¹ -----	2	39.5	2	39.5	-	-
Differs according to offense -----	2	381.2	2	381.2	-	-
International president -----	1	56.0	-	-	1	56.0
Referendum -----	1	1.0	1	1.0	-	-

¹ 1 constitution provided that the executive board try cases involving communism, for other offenses the accused had the option of being tried by the executive board or a trial body selected by lot. The other constitution provided for trial by a board selected by lot for most offenses, and for trial by the international president in emergencies.

NOTE: Because of rounding, sums of individual items may not equal totals.

itself, or to refer it to a special convention called for the purpose of conducting the trial. In the American Newspaper Guild, the executive board had such an option—

If the next regular meeting of the International Executive Board is scheduled for a time within 2 weeks before a Convention. . . .

Trial committees, the second most prevalent type of body named to conduct trials of international officers, were provided for on an ad hoc basis, as in the case of the United Welders of America (Ind.):

The President shall also notify all Local Presidents and they will meet with their Boards to select a Trial Juror and Alternate from their respective Locals. Each juror or alternate must be a former Local or National Officer, a member in good standing, and shall not be in office at the time. Such jurors or alternates so selected shall constitute the Trial Committee.

Other formulas were used to select ad hoc trial committees. For example:

. . . The said charges are to be referred to an investigating committee, consisting of three members in good standing, selected as follows: One by the General President Secretary-Treasurer; one by the party preferring the charges, and these two members shall elect a third member . . . (International Association of Marble, Slate and Stone Polishers, Rubbers and Sawyers, Tile and Marble Setters' Helpers and Marble Mosaic and Terrazzo Workers' Helpers)

Permanent trial bodies were provided for in three constitutions. The International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America, for instance, provided for a standing Trial Board composed of three executive board members and three alternate members, all selected by the board.

Trial bodies other than the ones already mentioned were infrequent. In the Brotherhood of Shoe and Allied Craftsmen (Ind.) constitution, two bodies, the executive board and a control board (consisting of the general vice-president organizer and two representatives from each local) were to meet in joint session to conduct a trial. In the American Train Dispatchers Association constitution, the executive board and the board of trustees were specified.

Trial by a body independent of any affiliation to the union was provided in two constitutions (American Federation of Grain Millers and National Agricultural Workers Union).³⁸ One of these provisions is reproduced below:

Whenever in his judgment the facts and circumstances of any case arising under this Constitution necessitate more formal and comprehensive hearing and deliberation than is contemplated by all the trial procedures set forth herein, the President, with the consent of the General Executive Board, may appoint a Special Hearing Officer to hear and decide the charges. The Special Hearing Officer need not be a member of the American Federation of Grain Millers and may be vested with all or part of the judicial powers by this Constitution conferred upon a Local Union Trial Board, a Local Union, an International Trial Board and the General Executive Board. (American Federation of Grain Millers)

Final Decision. In most constitutions, the body conducting the trial was also empowered to render the final decision (table VII-5). Only 16 of the 125 impeachment provisions required the trial body to submit its findings to another body for a final decision. In contrast, 78 of the 136 provisions for trial of members and local officers, at the local level, as described in chapter IV, provided that the final decision was to be rendered by a body other than the trial body.

Fourteen of the 16 constitutions that did not allow the trial body to make the final decision specified that the trial body's authority would be limited to making a recommendation to another body. In 9 of these 14, such recommendation was to be submitted to a membership referendum. The following clause was typical:

Upon receiving the evidence from both the accuser and the accused, the Board shall consult privately on same and shall determine the guilt or innocence of the accused upon charge and specification. If found guilty, it shall be the duty of the General Executive Board to issue a circular containing their findings and testimony thereon in brief, with full recommendations attached. Copy of same to be sent to each Local Union, which shall at a special meeting called for that purpose, proceed to vote on same . . . (United Garment Workers of America)

In one other constitution, the Aluminum Workers International Union, if the trial board made a finding of guilt, it then recommended to the executive board what it considered to be an appropriate penalty; the final decision as to the actual penalty was left to the executive board. In the other constitution, the Laundry and Dry Cleaning International Union, the trial body's decision was final except where the charge was malfeasance in office, in which case the final decision was left to the convention.

³⁸ The National Agricultural Workers Union has since merged with the Amalgamated Meat Cutters and Butcher Workmen of North America.

Table VII-5. Trial Bodies and Bodies Empowered to Hand Down Final Decision (Except in Appeals), National and International Union Constitutions, Early 1961

Trial body	(Number of unions)								
	Total studied	Body making final decision							
		Executive board	Convention	Referendum	Two bodies in joint session	Permanent trial committee	Ad hoc trial committee	Other	No reference to body making final decision
All impeachment provisions ---	125	89	6	10	2	3	8	3	4
Executive board -----	90	79		9			-	-	2
Executive board ordinarily; other governing body in special cases -----	3	13	.						
Executive board ordinarily; convention in special cases ---	6	25	-	-	-	-	-	-	1
Trial committee--ad hoc -----	13	1	2	-	-	-	8	3 2	.
Trial committee--permanent ---	3	-	-	-	-	3	-	-	
2 governing bodies in joint session -----	2	-	-	-	2	-	-	-	-
Convention -----	2	-	2	-	-	-	-	-	-
Convention or outside body ---	2	-	⁴ 1	-	-	-	-	-	1
Differs according to offense ⁵ ---	2	-	1	-	-	-	-	1	-
International president -----	1	1	-	-	-	-	-	-	-
Referendum -----	1	-	-	1	-	-	-	-	-

¹ If trial is by other governing body, it also makes final decision.

² If trial is by convention, it also makes final decision.

³ Under 1 constitution executive committee's decision is final if accused is held innocent, otherwise decision by referendum. In the other, final decision is made by international president.

⁴ If trial is by outside body, it also makes the final decision.

⁵ See footnote 1, table VII-4.

A unique variation was found in the constitution of the United Packinghouse, Food and Allied Workers:

The penalty of removal from office for the remainder of the accused's term or of suspension from membership in the Union, or both, may be recommended only if the accused is found guilty of dual unionism, mishandling of union funds or acting as agent of an employer.

For any offense other than those specified . . . above, the penalty recommended by the trial committee may not affect the membership status of the accused but may include suspension from office for a period up to sixty days and may also include a direction that a recall ballot be held . . .

The decision and recommendation of the trial committee shall be reported to the Executive Board, which may uphold, reject, or modify it. The powers of the Executive Board as to penalties shall be subject to the same limitations described . . . above except as enlarged . . . (as provided in the following paragraph, where the board is given power to appoint an Administrator in certain situations).

Size of Vote Required. More than half of the constitutions with impeachment provisions did not specify the size of vote required to impose sentence (table VII-6). Among the others, several different types of voting procedures were found. Some merely required a "majority," without further specification:

The Executive Board, by a majority vote, shall approve, disapprove, or modify the recommendation, and shall issue its decision . . . (Amalgamated Meat Cutters and Butcher Workmen of North America)

Table VII-6. Vote Required to Impose Penalty in Impeachment Cases, National and International Union Constitutions, Early 1961

Body imposing penalty	Total studied	(Number of unions)							
		Vote required							
		Majority	Majority of those voting	Majority of those present	Two-thirds of those present	Two-thirds of those eligible	Majority of those eligible	Other	No reference
All impeachment provisions ---	125	8	6	8	3	14	15	5	66
Penalty imposed by trial body --	105	6	4	7	2	12	14	4	56
Executive board -----	79	6	4	6	2	10	13	1 ²	36
Permanent body -----	3	-	-	-	-	-	1	-	2
Special body -----	7	-	-	1	-	2	-	-	4
Convention -----	2	-	-	-	-	-	-	-	2
Referendum -----	1	-	-	-	-	-	-	-	1
Other -----	13	-	-	-	-	-	-	2 ²	11
Penalty imposed by other than trial body -----	16	2	2	1	1	2	1	1	6
Executive board -----	3	1	1	1	-	-	-	-	-
Convention -----	3	-	-	-	1	-	-	3 ¹	1
Referendum -----	9	1	-	-	-	2	1	-	5
Other -----	1	-	4 ¹	-	-	-	-	-	-
No reference to body imposing penalty -----	4	-	-	-	-	-	-	-	4

¹ Under 1 constitution, three-fourths of the members of the executive board; in the other, two-thirds of the members of the board present and voting.

² Under 1 constitution, trial body consists of 2 governing bodies in joint session, and the vote must be two-thirds of those present and voting; in the other, both the executive board and the convention can act as the trial body, when the convention imposes the penalty, the vote size required is a majority of those present and voting, no reference to vote size when the executive board imposes the penalty.

³ Differs by offense.

⁴ When final decision is by referendum, a majority of the membership must vote; no reference to vote size when final decision is made by the executive committee.

Most of the provisions, however, were more precise as to the vote count, as in the following example:

. . . Such suspension of any International Officer or International Executive Board Member shall occur only by a two-thirds ($\frac{2}{3}$) vote of the Board, the accused officer or Board Member not voting. (Oil, Chemical and Atomic Workers International Union)

Due-Process Provisions³⁹

Form of Charges. Of the 125 constitutions with impeachment provisions, 110, or 88 percent, made reference to charges (table VII-7). Of these, however, 34 merely stipulated that charges had to be filed, making no mention of the form of the charges. In addition, 31 others simply stated that the charges were to be in writing. The most detailed provisions were found in the 13 constitutions in which both the constitutional provision violated and the acts allegedly committed had to be set out in the charge. The purpose behind such a requirement was spelled out in the constitution of the United Rubber, Cork, Linoleum and Plastic Workers of America:

In all cases, charges must be signed by the complainant and shall be sufficiently specific as to the provisions of Union law violated and of the alleged acts which constitute the basis of the charge to permit the defendant to prepare a proper defense.

Table VII-7. Form of Charges Required to Initiate Impeachment Proceedings, National and International Union Constitutions, Early 1961

Type of provisions	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All impeachment provisions -----	125	15,462.5	103	13,137.8	22	2,324.6
Constitutions providing for form of charges -----	76	8,080.4	68	7,999.2	8	81.3
Written and specific -----	41	3,357.0	35	3,282.6	6	74.4
Specify nature of offense -----	10	424.0	8	418.4	2	5.6
Specify facts of the offense -----	8	752.6	8	752.6	-	-
Specify facts and constitutional provision violated -----	13	1,301.5	12	1,298.2	1	3.3
Other ¹ -----	3	124.7	2	123.2	1	1.5
No reference to details to be specified -----	7	754.2	5	690.2	2	64.0
Written only -----	31	4,344.7	29	4,337.9	2	6.9
Specific only, no reference to details to be specified -----	4	378.7	4	378.7	-	-
Constitutions referring to charges, but making no reference to form -----	34	3,663.1	23	2,930.4	11	732.7
Constitutions not providing for reference to charges -----	15	3,718.9	12	2,208.2	3	1,510.6

¹ Includes 2 constitutions which require sworn charges, and 1 which requires only that the constitutional provision allegedly violated be specified.

NOTE: Because of rounding, sums of individual items may not equal totals.

³⁹ Although the prevalence of due-process clauses applicable to international officers differed from those for members and local officers, the types of provisions were similar. The earlier section (ch. VI) covering members and local union officers should be referred to for examples of clauses.

Initiation and Endorsements. Fifty of the 125 constitutions which provided for impeachment of international officers made no reference to a specific agent or body authorized to initiate such proceeding, although no member or officer was barred from doing so. In the other 75 unions, certain persons or bodies were designated as eligible to initiate impeachment proceedings. In some of these, words of limitation were used, making it explicit that only the party designated could initiate charges. For instance, one constitution provided:

. . . During the recess of the (convention) the officers of the Grand Division are amenable only to the Trustees, and no one else can prefer charges against them during their term of office. (Order of Railway Conductors and Brakemen, Ind.)

In other constitutions, limitations such as "no one else" or "only" did not appear, but the language nevertheless implied that the party designated was to be the exclusive one (or ones) to initiate charges. For example, the American Federation of Musicians' constitution provided:

Any Federation officer may be removed from his position for conduct unbecoming his position or for inattention to the duties of his station . . . on charges preferred by a Local of the Federation or any member of the Executive Board . . .

Approximately one-third of the 75 unions specifying an initiator provided alternative methods. For instance, the United Automobile, Aerospace and Agricultural Implement Workers of America allowed impeachment to be initiated—

. . . Upon written affidavit signed by five or more Board Members and filed with the International Secretary-Treasurer.

And also—

. . . Upon written affidavit signed by a Local Union member and endorsed by his own Local Union and by at least ten (10) additional Local Unions in the International Union, or in the case of charges against an International Executive Board Member, upon written affidavit signed by the Local Union member and endorsed by his own Local Union and a majority of the Local Unions within the region from which the international Executive Board Member is elected.

Members were designated in approximately one-half of the 75 constitutions, and "local unions" in about one-third.

Under seven constitutions, only the executive board (four) or the president (three) could bring charges. Only one of these, the Brotherhood of Shoe and Allied Craftsmen (Ind.), had provisions for recall and thus a member or a local union apparently could not directly bring charges against an international officer.

Nineteen of the 75 constitutions specifying an initiator included a requirement for endorsement. The persons or body named as endorser included the executive board, specified proportions of local unions or members, or a fixed number of locals. In 6 of the 19, the endorsement requirement varied depending upon who initiated charges. One of these, the Utility Workers Union of America, required no membership or local union endorsement when four or more executive members brought charges; when a local union was the initiating party, however, endorsements were required from 10 locals with 20 percent or more of the total union membership. Other variations included the following:

General officers, charged with violation of the Constitution, shall be tried only upon written charges signed and authorized by three Local Unions in good standing, or signed and authorized by two members of the General Executive Board. (Laundry, Dry Cleaning and Dye House Workers International Union, Ind.)

Safeguards During Trial. Eighty-eight constitutions, covering slightly more than 8.8 million members, specifically guaranteed the accused certain rights at his trial (table VII-8). In 26 unions, this guarantee was in the form of a general statement that the accused was entitled to a "full and fair hearing," without going into further details. In 19 unions, the right to present evidence and refute charges was stipulated, while in 14 others, all AFL-CIO affiliates, the right to cross-examine and confront witnesses was additionally guaranteed. Among the "other rights" guaranteed the accused in the 17 constitutions in this category were the rights to be represented by legal counsel, to have all witnesses sworn, and to have a written transcript of the proceedings.

Table VII-8. Selected Due-Process Rights of Accused in Impeachment Proceedings, National and International Union Constitutions, Early 1961

Rights of accused	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions with impeachment provisions -----	125	15,462.5	103	13,137.8	22	2,324.6
Constitutions providing for reference to due-process rights of accused -----	88	8,827.9	73	8,557.0	15	270.9
"Full and fair hearing" or similar statement -----	26	1,583.8	21	1,484.7	5	99.1
Cross-examine and confront witnesses -----	8	745.8	5	739.5	3	6.3
Present evidence to refute charges ---	19	1,906.2	14	1,819.5	5	86.7
Cross-examine and confront witnesses, and present evidence to refute charges -----	14	1,429.9	14	1,429.9	-	-
Challenge members of trial body ----	2	76.3	1	(¹)	1	76.2
Challenge members of trial body, and present evidence to refute charges --	1	1,027.0	1	1,027.0	-	-
Cross-examine and confront witnesses, present evidence to refute charges, and challenge members of trial body -----	1	71.5	1	71.5	-	-
None of the above rights specified, but other rights given -----	17	1,987.4	16	1,984.8	1	2.6
Constitutions not providing for reference to due-process rights of accused -----	37	6,634.6	30	4,580.7	7	2,053.7

¹ Less than 100 members.

NOTE: Because of rounding, sums of individual items may not equal totals.

Status Pending Trial. The status of officers during impeachment proceedings was studied at three stages: (1) Before charges were filed;⁴⁰ (2) after charges had been filed; and (3) after trial, pending appeal. The latter category will be discussed subsequently in the section dealing with appeals.

⁴⁰ The distinguishing characteristic between provisions in this category and those considered as summary discipline is that here trial machinery is available.

Only 14 of the 125 unions having impeachment provisions, covering fewer than half a million members, dealt with an international officer's status before charges were filed. In each of these 14 unions, the choice of whether to suspend the officer was optional with the body authorized to impose discipline. In some, the authorization was in the form of an emergency-type clause:

In an emergency, the International President may suspend an International Officer. He shall call an emergency meeting of the International Executive Board to give said officer a just and fair trial. (Allied Industrial Workers of America)

In other constitutions, the clause authorizing suspension before charges was of a more routine nature and did not contain language limiting such suspensions to emergency situations:

He (the president) shall have authority should he become satisfied that any International officer is derelict in the performance of any duty, or has been guilty of any dishonest act, to suspend such officer from his official position; in such event he shall furnish the officer so suspended with a detailed statement of his reasons for so doing . . . (International Brotherhood of Bookbinders)

Thirty-one constitutions, covering 3.6 million members, provided for a change of status after the filing of charges. Included in this group were 10 of the 14 constitutions under which a change in status could take place before the filing of charges. In 13 of the 31 constitutions, suspension was optional after charges were filed. On the other hand, five others required automatic suspension under certain circumstances:

The General Executive Board shall examine all charges preferred to it . . . and shall have the power to declare such charges cognizable or not. If cognizance is taken of the charges the accused shall be temporarily suspended from office . . . (International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada)

A smaller group of unions (four) authorized the trial body to suspend an officer after it had made a finding of guilt, pending ratification of its findings in a referendum vote.

In contrast, two constitutions specifically prohibited any change of status, until the case had been decided:

Until such charges and investigating report have been finally acted upon by the International Association at the convention, he shall continue to act as General President Secretary-Treasurer. (International Association of Marble, Slate and Stone Polishers, Rubbers and Sawyers, Tile and Marble Setters' Helpers and Marble Mosaic and Terrazzo Workers Helpers)

* * *

. . . he shall act as International President until such charges are proven against him. (The Granite Cutters' International Association of America)

Appeals. The convention plays a large role in appeal procedure, since its powers are usually greater than those of the executive bodies which render the final decision. (As discussed earlier (table VII-4), 99 constitutions named the executive board as the trial body in all or most impeachment cases, and 89 authorized the executive board to render the final decision (table VII-5). Of the 85 constitutions that made reference to appeals, 70, covering just 8.6 million members, specified the convention as the final appeal body in all cases (table VII-9). In addition, 6 others, covering 1.3 million members, specified the convention as an alternative final appeal body, including 4 of the 11 which provided for appeal by referendum. The latter situation is illustrated below:

(The impeached officer) shall have the right to appeal to the next Convention or demand a referendum vote on his removal from office. (International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America)

Table VII-9. Final Appeal Body in Impeachment Procedure, National and International Union Constitutions, Early 1961

(Members in thousands)						
Final appeal body	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All impeachment provisions -----	125	15,462.5	103	13,137.8	22	2,324.6
Constitutions providing for reference to appeal -----	85	10,817.0	70	8,546.0	15	2,271.1
Final appeal body:						
Convention -----	70	8,619.8	56	6,404.7	14	2,215.1
Referendum -----	7	594.0	6	538.0	1	56.0
Convention or referendum -----	4	290.9	4	290.9	-	-
Convention or public review body -----	2	1,083.1	2	1,083.1	-	-
Other ¹ -----	2	229.2	2	229.2	-	-
Constitutions not providing for reference to appeal -----	40	4,645.4	33	4,591.9	7	53.6

¹ Under 1 constitution, decisions of the executive board may be appealed to the convention, but decisions of membership referendum are final. In the other constitution, the convention is the final appeal body, but if the next convention is more than 1 year away from the time of the final decision of the executive board, an appeal to convention is ruled out.

NOTE: Because of rounding, sums of individual items may not equal totals.

In the American Newspaper Guild, a referendum could be called only in those cases where the next convention was more than 4 months away. (In this union, the convention is held annually.)

The appeals options in the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and the Upholsterers' International Union of North America, namely of going either to the convention or to a public review board, has already been described (chapter VI).

In the constitution of the American Bakery and Confectionery Workers' International Union, an appeal to the convention was provided, but in instances where the convention was more than 1 year away from the time of the final decision of the executive board, that decision was final. (The union meets in convention every 4 years.) In the United Packinghouse, Food and Allied Workers Union, most decisions of the executive board could be appealed to the convention but:

If a recall referendum is held as part of the penalty imposed, the results of such a referendum shall be binding and may not be reversed by convention action during the current term of office.

Role of Referendum in Impeachment Proceedings. A referendum was not a common procedure in impeachment proceedings, with only 22 unions, covering 2.2 million members, allowing for its use at various stages (table VII-10). In one union, it was not clear at what level the referendum came into use, as the following clause indicates:

Any general officer may be suspended by the Executive Board upon charges being filed against him, pending investigation and final action. If such charges are sustained by a majority of the membership of the International Union voting, he shall be removed. (International Broom and Whisk Makers' Union of America)

Table VII-10. Role of Referendum in Impeachment Proceedings, National and International Union Constitutions, Early 1961

Role of referendum in impeachment proceedings	(Members in thousands)		Right of accused to present defense statement			
	Total studied		Specified		Not specified	
	Unions	Members	Unions	Members	Unions	Members
All impeachment provisions -----	125	15,462.5	103	13,137.8	22	2,324.6
Constitutions providing for reference to referendum -----	22	2,228.2	6	442.8	16	1,785.4
Trial is conducted by referendum -----	1	1.0	-	-	1	1.0
Referendum employed to ratify trial body's decision -----	10	1,342.3	¹ 3	218.2	7	1,124.1
Final appeal is a referendum -----	11	884.9	3	224.6	8	660.3
Constitutions not providing for reference to referendum in impeachment proceedings -----	103	13,234.3	97	12,695.0	6	539.2

¹ Under 1 constitution, referendum can be an appeal or a ratification authority depending upon the nature of the offense. It is treated as a ratification authority in this table.

NOTE: Because of rounding, sums of individual items may not equal totals.

A referendum was most often stipulated to (1) ratify the decision of the trial body, or (2) act as a final appeal body. With respect to ratification, a

typical clause, from the constitution of the Transport Workers Union of America, provided:

The International Executive Council shall have the power to remove any of the officers enumerated . . . who, after due trial upon written charges . . . is found guilty of dishonesty, malfeasance, or maladministration, and such findings are approved in a referendum by a majority of the members of the International Union.

As shown in table VII-9, the referendum as the exclusive final appeal was found in seven constitutions, and as an alternative method in four others. In 10 of these 11 unions the issue was submitted to a vote of the "membership," although in a few cases this was limited to the "affected membership." In the eleventh constitution, the issue was submitted to a vote of the locals.

Only 6 of the 22 unions specifically granted the accused officer the right to submit a document stating his version of the case on the ballot. For example:

The referendum ballot shall be accompanied by a statement by the Executive Board majority and a statement by the accused. (Oil, Chemical and Atomic Workers International Union)

This right to enclose a statement was less specific in the following constitution:

. . . The findings of the General Executive Board, with a copy of all evidence, (shall be) submitted to a general vote of the Local Unions within thirty days. (United Brotherhood of Carpenters and Joiners of America)

Presumably, the accused's position could be found somewhere in the evidence.

Fifteen constitutions defined the size of vote required in the referendum. In 13 of these, a majority of those voting was required. In another, the Airline Communications Employees Association (Ind.), two-thirds of the members eligible to vote was specified. In the other constitution, the United Garment Workers of America, where the referendum is used to ratify decisions of the trial body, each local union was entitled to the same number of votes it would have at a convention, and a majority vote was required to uphold the executive board.

Status Pending Appeal. Only eight constitutions made specific reference to the status of international officers pending the outcome of their appeal. In one, the status of an international officer could not be altered until after a final decision of guilt was upheld on appeal. In the other seven unions, the appellate body, at its discretion, was empowered to stay the decision pending the outcome of the appeal.

Recall of International Officers

Thirty-six constitutions, covering nearly 5 million members, provided for the recall of international officers (table VII-1). In 18, recall was an alternative to impeachment as a method of removal. Five of the remaining 18 provided for recall and summary discipline, whereas in 13, covering fewer than 1 million members, recall was the only method available to remove an international officer.

Grounds. In 29 of the 36 constitutions with recall provisions, grounds for initiating a recall petition were not indicated, thereby putting no limitations on this removal method. One of the 29 constitutions specified that recall could be initiated "with or without cause." In most of the remaining seven, broad grounds were given, such as "for justifiable cause," "for good and sufficient cause," and "derelict in his duties." In one of these seven, the grounds were limited to one specific offense:

(Participation) in the work of any Communist, Nazi, Fascist, or any other un-American organization. (Associated Unions of America, Ind.)

Of the 11 constitutions which referred to the contents of the recall petition (table VII-11), only one, that of the Utility Workers of New England (Ind.), contained a limitation on grounds and a requirement that "written charges . . . be filed."

Table VII-11. Contents of Petitions to Recall National Officers,
National and International Union Constitutions, Early 1961

Contents of petition	(Members in thousands)		Affiliation			
	Total studied		AFL-CIO		Unaffiliated	
	Unions	Members	Unions	Members	Unions	Members
All recall provisions -----	36	4,893.5	23	3,871.5	13	1,022.0
Constitutions providing for reference to contents -----	11	2,214.5	9	2,109.9	2	104.6
Petition must be specific -----	4	1,222.4	4	1,222.4	-	-
Petition must recite acts or conduct complained of -----	1	255.4	1	255.4	-	-
Petition must set forth the reason ----	3	545.5	3	545.5	-	-
Petition must be accompanied by charges -----	3	191.2	1	86.6	2	104.6
Constitutions not providing for reference to contents -----	25	2,679.0	14	1,761.6	11	917.4

NOTE: Because of rounding, sums of individual items may not equal totals.

Initiator and Endorsement. All but 5 of the 36 constitutions made reference to the individual or group authorized to initiate a recall petition (table VII-12). The initiator, in most cases, was the local union (22); only 9 of the 36 recall provisions explicitly permitted a member to initiate recall. Moreover, 10 of the 22 constitutions that provided for some agent other than a member to initiate charges contained no impeachment provisions; thus an individual member, in these unions, was apparently without a means of setting machinery in motion to remove an international officer. Thirty one constitutions required an endorsement of the recall petition. Three of the five constitutions without this requirement also failed to state an initiating agent.

Table VII-12. Requirements for Initiation and Endorsement of Recall Petitions, National and International Union Constitutions, Early 1961

Initiating agents	(Number of unions)									
	Unions	Endorsed by—							Other	No reference
		Percent of locals	Percent of members	Number of locals	Percent of locals and members	Number of locals and percent of members	Varies by initiator			
All recall provisions -----	36	5	8	4	3	6	4	¹ 1	5	
Member -----	8	-	6	-	-	2	-	-	-	
Local union -----	18	5	1	4	2	4	-	1	1	
Executive board -----	1	-	-	-	-	-	-	-	1	
Member or local union -----	1	-	-	-	-	-	1	-	-	
Local union or executive board -----	3	-	-	-	-	-	3	-	-	
No reference -----	5	-	1	-	1	-	-	-	3	

¹ If the union's governing body rules against submitting the petition to a recall vote, the initiating local may petition all other subordinate locals to overrule the board of directors, with a majority of locals required to vote for overruling.

Procedure. Only eight constitutions specified that the recall petition had to be reviewed before being submitted to a vote, a function assigned to the executive board or another governing body. In five of the eight, the executive board was empowered to drop the charges, although in three of these the executive board's decision could be reversed either, in two unions, by a specified number of local unions or, in one union, by the next convention.

In a sixth constitution, there was provision for a preliminary investigation of the charges by the executive board, as a result of which certain recommendations "as seem justified by the facts" were to be made and submitted to the local unions for a vote.

In the remaining two constitutions, the nature of the review procedure was somewhat different. One provided:

If the petition shall be found to be sufficient, the Board of Trustees shall submit a recall ballot to the membership . . . (Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees)

Whether the review was limited to an examination for technical sufficiency, or was broad enough to include substantive sufficiency, was not explicit in the above language. The remaining provision was also susceptible to more than one interpretation:

If a petition signed by ten percent (10%) or more of the total members in good standing no more than one-third ($\frac{1}{3}$) signatures to be gotten by any one Local proposing petition shall be mandatory and shall be submitted to the rank and file within thirty days (30) after presenting said petition to the General Board and their acceptance. (Emphasis added.) (Brotherhood of Shoe and Allied Craftsmen, Ind.)

Agent Administering Recall. The term "administering agent" refers to the person or body responsible for the recall procedure, including the submitting of the petition to the membership for a vote and the tabulation of results.

The office of secretary-treasurer was found to be the one most often called upon to administer the recall petition (table VII-13). In seven unions, alternative agents were designated to cover those situations where the officer who would ordinarily administer the petition was himself involved.

(A petition) shall be filed with the Secretary-Treasurer of the Union, provided, however, that a petition directed against the Secretary-Treasurer shall be filed with the President. (Communications Workers of America)

Table VII-13. Agent Administering Recall of National Officers, National and International Union Constitutions, Early 1961

Agents	(Members in thousands)					
	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All recall provisions -----	36	4,893.5	23	3,871.5	13	1,022.0
Constitutions referring to administering agent -----	30	4,832.2	21	3,821.6	9	1,010.7
Executive board -----	10	610.2	7	504.9	3	105.4
President -----	¹ 4	146.8	1	5.7	3	141.1
Secretary-treasurer -----	² 12	3,275.4	10	2,671.2	2	604.2
Board of trustees -----	4	799.8	3	639.8	1	160.0
Constitutions not referring to administering agent -----	6	61.3	2	49.9	4	11.4

¹ Includes 3 constitutions in which the president is the administering agent in all cases except where the recall is directed against him, in which case another agent is specified.

² Includes 4 constitutions in which the secretary-treasurer is the administering agent in all cases except where the recall is directed against him, in which case another agent is specified.

NOTE: Because of rounding, sums of individual items may not equal totals.

Status Pending Recall. Only seven constitutions, covering just over one-half million members, made reference to the status of the international officer after recall action had been initiated. In two constitutions, any change of status was specifically prohibited:

The officer shall retain office until the results of the special election are officially declared. (Brotherhood of Maintenance of Way Employes)

In the other five constitutions, the status of the officer was altered pending recall. For instance, the International Longshoremen's and Warehousemen's Union (Ind.), provided that the officer—

. . . shall immediately stand suspended from office pending a recall election.

In the Window Glass Cutters League of America, where the recall petition goes through a preliminary review by the executive board, the suspension was effective only after the reviewing agent voted to accept the petition.

In one constitution, suspension pending recall was limited to the following situations:

An officer of the Union, Member of the Executive Board, National Director, Collective Bargaining Committee Member or Local Officer against whom a petition for recall . . . has been filed on grounds of embezzlement, larceny, wilful misapplication of Union assets, shall forthwith be suspended, pending the determination of the recall proceedings and the Union shall cause a substitute to be appointed to serve in his stead during his suspension. (Communications Workers of America)

In two of the five constitutions which provided for suspension, the matter of pay during suspension was specifically dealt with:

The Executive Board, in its discretion, shall decide whether or not his pay should continue. (International Union of Mine, Mill and Smelter Workers, Ind.)

Right to Enclose Statement. Fourteen of the constitutions made reference to the right of the accused officer to enclose a statement giving his defense along with the recall ballot. Ten of these 14 merely specified that the accused had the right to enclose a statement, without further detail, as in the following:

Said petition (for recall) to accompany charges for which a recall is asked and defense of those charged. (United Mine Workers of America, Ind.)

In the other four constitutions, the length of the statement was limited, as in the following excerpt:

Such officer or officers may . . . file a written statement of defense, containing not more than 500 words, with the General Secretary-Treasurer, who shall cause the same to be printed and mailed to all Local Lodges concurrently with the call for the endorsements for nominees . . . (International Association of Machinists)

Time Allowed Accused to Prepare Defense. Seven of the 36 constitutions made reference to the time allowed the accused to prepare his defense. Four unions allowed the accused a specific number of days for this purpose. Two specified 15 days, one specified 30 days, and the other granted 90 days.

The constitution of the United Packinghouse, Food and Allied Workers contained perhaps the most detailed provision with respect to procedure. In the first instance, before a local union could initiate charges, it had to allow the accused 14 days' notice, at which time he had the right to attend or be represented at a special meeting called for the purpose of approving the recall petition. There was then a 45-day period within which all the required endorsements had to be received. Within 7 more days, the petition and endorsements were referred to the executive board. At this point, the accused was once again notified, and given "a full opportunity to be heard and be represented in his own defense." The ballot, recommendations of the board, and answer of the accused, if any, were then sent to the locals for a referendum vote, and had to be returned within 30 days.

In two unions the accused had to be notified, but no details were specified. One of these constitutions stipulated:

. . . The officer to be recalled shall be permitted to make a complete statement of defense in the same issue of OUR JOURNAL or in the same mail sent out to the local unions or its membership. (Metal Polishers, Buffers, Platers and Helpers International Union)

Ballot Issue. In the majority of constitutions with recall provisions, the question submitted to a vote was whether or not the officer should be recalled or retained:

. . . the Trustees shall order the petition to be sent to every local in good standing, which shall take an aye and nay vote upon sustaining the recall. (International Union of Electrical, Radio and Machine Workers)

In five constitutions, however, the ballot issue upon which votes were cast was not on the question of the recall itself, but rather was an election ballot, in which the vote was to retain the accused officer in office or replace him with another (table VII-14).

Table VII-14. Issues to be Decided and Size of Vote Required in Recall Procedures, National and International Union Constitutions, Early 1961

Size of votes	Total studied		Ballot issue					
	Unions	Members	Recall		Election of officers		Not specified	
			Unions	Members	Unions	Members	Unions	Members
All recall provisions -----	36	4,893.5	19	1,889.1	5	1,529.1	12	1,475.3
Constitutions specifying size of vote -----	25	3,416.1	13	673.4	5	1,529.1	7	1,213.7
Majority of members voting -----	12	923.5	6	323.1	4	536.4	2	64.0
Two-thirds of members voting -----	7	312.9	4	43.2	-	-	3	269.7
Majority of members eligible -----	4	587.1	3	307.1	-	-	1	280.0
Plurality -----	2	1,592.7	-	-	1	992.7	1	600.0
Constitutions not specifying size of vote -----	11	1,477.4	6	1,215.8	-	-	5	261.6

NOTE: Because of rounding, sums of individual items may not equal totals.

The following provision was typical of those in which the recall issue involved an election:

If the petition shall be found to be sufficient, the Board of Trustees shall submit a recall ballot to the membership within thirty (30) days after the petition has been filed with it. The Board of Trustees shall publish or cause to be published notice of and make all arrangements for holding such election by secret ballot and same shall be conducted, and returned and result thereof be declared . . . This ballot shall also contain the names of the candidates who have been nominated by local lodges for the Grand Lodge officer for which the recall is made. It shall be necessary that each nominee have the endorsement of not less than fifty (50) lodges.

The successor of any officer removed by recall shall hold office during the unexpired term of his predecessor . . . Any officer whose removal is sought can be a candidate to succeed himself, and unless he requests otherwise in writing to the Board of Trustees, the Board of Trustees shall place his name on the official ballot without nomination. (Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes)

To remove the officer, a plurality of constitutions (12) specified a majority of the members voting; second in frequency (7) was a requirement for two-thirds of the members voting.

Finally, only seven constitutions specified a secret ballot in recall votes. Although not specifically required in the other 29 constitutions, neither was it precluded, and the rules of order for the conduct of voting may require a secret ballot.

Disciplinary Powers Available to the AFL-CIO

The disciplinary powers of the AFL-CIO were vested by its constitution primarily in the president and the executive council.⁴¹ In article VIII, section 2, the executive council was given general power, between conventions, to—

. . . direct the affairs of the Federation and to take such actions and render such decisions as are necessary and appropriate to safeguard and promote the best interests of the Federation and its affiliated unions . . .⁴²

More specifically, the executive council was empowered (article VIII, section 12) to remove from office any officer who, after notice and hearing, was found ineligible (by a two-thirds vote) to hold office because of membership in or activities directed toward the achievement of the purposes of the Communist Party (as provided in article V, section 10).

Impeachment proceedings against executive officers of the Federation and members of the executive council were specified in section 11 of article VIII. The grounds listed were "malfeasance or maladministration," and the executive council was named as the body to file charges and act as the trial body. Upon conclusion of such trial, it was to "make a report to the convention recommending appropriate action." The charged officer had to be furnished with a copy of the written charges at "reasonable time" before the hearing.

⁴¹ Composed of the president, secretary-treasurer, and 27 vice-presidents. For a summary of the structure of the AFL-CIO, see the Directory of National and International Labor Unions in the United States, 1961 (BLS Bulletin 1320).

⁴² On May 20, 1957, Dave Beck, former president of the International Brotherhood of Teamsters, was removed from the executive council. At that time, President George Meany stated that the action was taken under Art. VIII, Sec. 2. (AFL-CIO News, May 25, 1957.)

With regard to discipline against affiliates charged with corruption or subversion, it was provided that:

. . . The Executive Council, when requested to do so by the President or by any other member of the Executive Council, shall have the power to conduct an investigation . . . of any situation in which there is reason to believe that any affiliate is dominated, controlled, or substantially influenced in the conduct of its affairs by any corrupt influence, or that the policies or activities of any affiliate are consistently directed toward the advocacy, support, advancement or achievement of the program or of the purposes of the Communist Party, any fascist organization or other totalitarian movement . . . (article VIII, section 7)

Any such investigation was to be carried out by a standing or special committee appointed by the president. Upon completion of the investigation, which was to include a hearing if requested, the executive council was further empowered:

. . . to make recommendations or give directions to the affiliate involved and shall have the further authority, upon a two-thirds vote, to suspend any affiliate found guilty of a violation of this section . . .

Such executive council action against an affiliate was specifically made appealable to the convention.

In addition, the executive council was given rulemaking authority to provide for the discipline, including suspension, expulsion, and establishment of trusteeships of State and local central labor bodies (article XIV, section 3) and organizing committees, national councils, and directly affiliated local unions (article XV, section 2)⁴³

⁴³ Rules and regulations issued under these sections by the executive council designate the President as the agent to administer discipline, and detailed trial procedures have been published.

Chapter VIII. Influence of the Labor-Management Reporting and Disclosure Act on Discipline Provisions of Union Constitutions

The constitutions of 70 national and international unions which held conventions between September 14, 1959, and late 1961 were studied for changes in disciplinary provisions adopted after the Labor-Management Reporting and Disclosure Act went into effect.⁴⁴ Of the 70 unions studied, 55, covering over 9 million members, had amended one or more of their constitutional provisions relating to disciplining officers or members. The remaining 15 had not amended their constitutions in this area. In several of the remaining unions, the disciplinary provisions appeared to contain most, if not all, of the safeguards and guarantees introduced by other unions to conform to the requirements of the 1959 Act.

The constitutional amendments varied in both substance and degree. In some cases, for example, the changes involved a sentence or two clarifying existing procedural provisions; in others, detailed substantive changes were adopted. A general savings clause was added in a few instances; for example, the Papermakers adopted the following provision at their 1960 convention:

In the event any provision of this Constitution shall hereafter be determined to be inconsistent with the provisions of Title I or Title IV of the Labor-Management Reporting and Disclosure Act of 1959, the International Executive Board may thereupon cease giving effect to such provisions and may adopt a substitute provision pending action by the next regular or special convention of the International Union.

Except where an amendment, as in the foregoing clause, specifically mentioned the Labor-Management Reporting and Disclosure Act, it cannot be inferred that all amendments in discipline procedures were adopted directly as a result of the act.⁴⁵ This assumption is more strongly supported in some cases than in others. For instance, there is little reason to doubt that the act was

⁴⁴ At least 45 additional unions were known to have held conventions during this period, but their constitutions were not available at the time this analysis was completed. It must be emphasized that the act is also applicable to subordinate bodies.

⁴⁵ In a number of cases, although the amendments did not refer to the act, convention proceedings and statements in union newspapers or other union periodicals left no doubt as to the reason for the change. For instance, the amendments to the Machinists' constitution were prefaced with the statement that "these amendments represent changes in our Constitution so as to conform to the requirements of the Landrum-Griffin Act." (See preamble to the resolution containing constitutional amendments presented to the 25th Convention, September 1960.)

Union statements to the effect that amendments to conform to the requirements of the Landrum-Griffin Act, "are required by the Act," etc., do not necessarily reflect official Government or judicial interpretation of the act's requirements. This caution found its way into some union statements, as, for example, the following issued by the Marble, Slate, and Stone Polishers:

. . . our General Executive Council . . . following review of the pertinent sections of our Constitution and upon advice of our attorney, have concluded that the changes, alterations, amendments, and deletions noted herein will satisfy the requirements of the Law with respect to our constitution.

primarily, if not entirely, responsible for the adoption by some unions of a 4-month exhaustion-of-remedies provision. The cause and effect relationship is less certain, however, with regard to an amendment adding, for example, a requirement that witnesses testify under oath.

Few generalizations can be drawn as to the nature of the amendments. Changes relating to grounds for discipline, due process, and removal of officers were prevalent, but no specific issue was predominant. It can be said with certainty, however, that the act provided a strong stimulus for unions to re-view the disciplinary provisions of their constitutions, in some unions for the first time in many years.⁴⁶ The overall result has been a trend toward more formalized union disciplinary procedures within a framework of broad guarantees and prohibitions.

Applicable Provisions of the Law

At least 12 provisions of the act directly or indirectly relate to the disciplinary process as conceived in this study. These are discussed briefly below⁴⁷

Section 201(a) requires every labor organization to adopt a constitution and bylaws, and subsections 5(H) and 5(I) of this section require reports to be filed with the Secretary of Labor indicating their disciplinary procedures.

Title I, entitled "Bill of Rights of Members of Labor Organizations," has a number of relevant sections. The first, a proviso in section 101(a) (2), may affect union constitutional provisions which make union-loyalty violations a ground for discipline. Section 101(a) (4), in protecting the right to sue, bears directly upon union constitutional provisions which call for the suspension, expulsion, or fining of any member who resorts to a civil court before exhausting the internal remedies of the union.

A third section, 101(a) (5), focuses directly on disciplinary procedures, and encompasses the entire due-process area. Any constitutional provision which violates or is inconsistent with these requirements (as well as with any of the title I requirements) is declared inoperative under section 101(b).

Title IV, which deals with union elections, contains five relevant sections. Electioneering as a ground for discipline has been somewhat circumscribed by section 401(c), which guarantees members who are candidates for union office the right to distribute campaign literature; assurances regarding the right to vote and to participate in election campaigns are set forth in section 401(e). Section 401(h), providing for the removal of officers guilty of serious misconduct, by vote of the membership, in cases where the constitution and bylaws of the union provide no adequate removal procedure, will probably have its greatest impact after the Secretary of Labor promulgates minimum standards as to what constitutes such procedures, as provided in section 401(i).⁴⁸ Section 402(a) applies a 3-month exhaustion-of-remedies time limit to title IV, thereby affecting this aspect of union due-process provisions.

Title V, section 504, prohibits persons who are or who have been members of the Communist Party, or who have been convicted of specified major crimes, from holding union office for a 5-year period.

⁴⁶ For example, the Bill Posters, Boilermakers, and Meat Cutters.

⁴⁷ See p. 163 for the text of all sections of the Labor-Management Reporting and Disclosure Act of 1959 cited in this chapter.

⁴⁸ Proposed procedures for the removal of officers, issued by the Secretary of Labor, were published in the Federal Register, November 7, 1962.

Title V, section 504, prohibits persons who are or who have been members of the Communist Party, or who have been convicted of specified major crimes, from holding union office for a 5-year period.

Section 609 prohibits the disciplining of members for exercising any right to which they are entitled under the act, and thereby serves as an overall check on grounds for discipline under union constitutions. In addition to the 12 sections discussed above, 2 other sections, 101(a) (1) and 610, merit consideration.

Amendments to Union Constitutions

Protection of The Right to Sue. The "protection of the right to sue" provision of the law (Sec. 101(a) (4)) seems to have had a clear effect upon union constitutions. Fifteen of the constitutions studied, covering more than 2 million members, had changes designed to conform with this provision.

One method was to enact an interpretation clause, as in the case of the Laundry Workers (Ind.):

These bylaws shall not be construed as requiring any member . . . to exhaust his remedies for a period more than four months after the date of service of charges.

A second approach was to withhold sanctions if internal remedies were pursued for a 4-month period, without a final decision. For example, the constitution of the Granite Cutters, prior to the 1959 law, contained the following provision:

No officer or member of the Association or any local branch shall resort to court proceedings of any description in any matter pertaining to this organization, its local branches or its membership until all remedies provided for within the International Constitution and the Local Branch Laws have been fully exhausted.

The same constitution, as amended in 1960, retained this clause, but added the following proviso:

Provided that a member or officer shall not be subject to any charges hereunder if he has exhausted his remedies for a period not to exceed four months.

The indirect effect of the two provisions just cited was to vary the identity of the final decision body or final appeal within the union where disciplinary action was not completed within 4 months. In a third type of provision, this was dealt with directly. The Lathers' constitution, for example, contained the following provision before the 1959 Act:

The appellate body, whether it be the General President and/or the Executive Council and/or the Convention of the (International), shall have the power to affirm, reverse, modify or amend any decision or to render such a new decision or penalty as it, the appellate body, believes to be fair and just.

Following enactment of the Labor-Management Reporting and Disclosure Act, the Executive Council issued the following rule regarding the interpretation and application of the above provision:

If an appeal has not or cannot be heard or acted upon by the Convention of the (International) within the four month period referred to and described in Title I, Section 101(a) (4) of the Labor-Management Reporting and Disclosure Act of 1959, then, if litigated by the member or members involved, the decision of the appellate body which last heard and decided the matter shall be considered as the final appellate decision on the merits of the question or matter involved.

Finally, some unions adopted a general savings clause, as, for example, the Firemen and Oilers:

Consistent with existing law, no member shall appeal to the Civil Courts for redress until after exhausting all rights of appeal provided in this Constitution.

Some unions that did not amend their constitutions in this area may have changed their procedures by administrative action. The following excerpt from a letter to local unions of the Marble Polishers, for example, outlined a new policy for expediting appellate hearings.

. . . In order to comply with the intent of the law it shall be our policy that, where appeals are taken timely and within the provisions of our Constitution, the General President Secretary-Treasurer may, within his discretion, call a special meeting of the General Executive Council for the purpose of hearing or deciding any appeal within the prescribed statutory period. It will not be necessary, therefore, to amend, change, or alter the present provisions of our Constitution. (Circular letter from General President to all local unions, dated 2-26-60.)

Right to a Fair Trial. A number of constitutional amendments could be traced to the specific requirements of subsections A, B, and C of section 101(a) (5). In some, amendments took the form of incorporating the language of section 101(a) (5). This was true of unions which already had extensive hearing provisions such as the Typographers, as well as those which previously had few details, such as the Cigar Makers.

Fifteen unions adopted amendments to their constitutions that fell within the scope of the 101(a) (5) (A) requirement that members be furnished with written specific charges. Of these, 12 were concerned with the specificity of the charges (at either the local or international level, or at both). Five of the 12, as well as 3 others, dealt with the medium for notifying the accused.

Most of the 12 constitutional changes concerning specificity of charges stiffened existing requirements. For instance, the Street, Electric Railway and Motor Coach Employees union made the following changes in its constitution in late September 1959:

When any charge or charges are preferred against any member or members, such charge or charges shall be in writing AND SHALL BE SPECIFIC. (author's emphasis)

In other unions, the amendments were more detailed. For example, in 1960 the Operating Engineers made the following change:

All charges must be preferred in writing, signed by the complainant and filed with the Recording-Corresponding Secretary . . . CHARGES SHALL BE SPECIFIC, STATING CLEARLY, CONCISELY AND AS ACCURATELY AS POSSIBLE THE TIME, PLACE, NATURE AND CIRCUMSTANCES OF THE OFFENSE ALLEGED. (author's emphasis)

Section 101(a) (5) (A) requires not only "specific charges," but also that these charges be "served" on the accused. Most of the unions making changes in this area required that charges be served in person or by registered mail. Formerly, most of these constitutions either contained no specific requirements for service, or merely stated that an accused must be "notified." There were varying interpretations between unions as to how best to implement the "service" requirements of the act. For instance, the Commercial Telegraphers' constitution formerly provided:

When such charges are preferred against any member, the President or General Chairman of the Division shall within 10 days MAIL a copy of such charges to the accused member. (author's emphasis)

However, in 1959, after passage of the act, the requirement that a copy of the charges be "mailed" was dropped, and the words "shall furnish the accused with a copy of the charges" were substituted. On the other hand, although the Boilermakers' constitution formerly allowed service either by personal delivery or by registered or certified mail, since 1961 the constitution provides only for service by registered or certified mail.

Eighteen unions adopted amendments which reflected the 101(a) (5) (B) requirement that an accused member be "given a reasonable time to prepare his defense." There was a difference of opinion, however, as to what constituted a reasonable time, as the following tabulation indicates:⁴⁹

Unions	Days
1 -----	5
2 -----	7
5 -----	10
1 -----	14
3 -----	15
1 -----	20
2 -----	30
2 -----	"A reasonable time"
1 -----	"A reasonable time, but in no event less than 10 days"

⁴⁹ Where different time limits were specified for the local and international trial levels, the local level provision is given.

Eight of these constitutions already had designated specific periods of time for the preparation of the accused's defense, and in each instance the period was increased, as follows:

Unions	Increase	
	From	To
1 -----	3 days	10 days
1 -----	5 days	7 days
1 -----	5 days	10 days
1 -----	7 days	14 days
1 -----	7 days	15 days
2 -----	10 days	15 days
1 -----	10 days	30 days

The two unions which specified "a reasonable time" previously contained no reference on this matter. On the other hand, two unions which formerly specified "a reasonable time," changed their constitutions by specifying the number of days. For example, the Commercial Telegraphers formerly specified a "reasonable time, not to exceed 30 days," but since 1959 the constitution provides that "30 days shall be allowed (the accused) in which to furnish a defense."

One union, the Seafarers, changed from a specific to a general provision. The pertinent constitutional provision of that union, before the 1959 Act, was as follows:

Such complaints must be filed not more than 90 days from the date that the grievance arose.

Upon the filing of a complaint the body having jurisdiction shall fix a date not less than twenty days nor more than forty days from the date of filing said grievance for hearing.

In 1961, that language was deleted and the following substituted:

The Executive Board shall establish rules and procedures for filing of grievances or complaints and for hearing and disposition of any grievance or complaint falling within the jurisdiction of the Executive Board.

The third requirement in section 101(a) (5), namely, that an accused be "(C) afforded a full and fair hearing," was also reflected in conforming constitutional amendments. Thirteen unions incorporated the term "full and fair hearing" into their constitutions; 10 applicable to trials at the local level, 1 at the international trial level, and 2 at both trial levels. In some of these constitutions, such as that of the Typographers, the full and fair hearing requirement was superimposed on a number of existing specific safeguards, such as the right to introduce evidence, to testify, and to require witnesses to testify under oath. In other constitutions, such as the Cigar Makers, there had been few, if any, specific safeguards.

In 12 other unions, where the term "full and fair hearing" was not incorporated, a variety of hearing safeguards were added. For example, the Allied Industrial Workers amended its constitution by providing a number of due-process guarantees, namely, the right to introduce evidence, to testify, to invite witnesses, and to cross-examine witnesses.

Two of the unions adding a full and fair hearing clause, as well as two others, also adopted specific provisions to assure an impartial trial board. By far the most detailed of these was that of the Masters, Mates, and Pilots, adopted in 1960:

1. When the Accused is Present:

The presiding officer at the meeting shall draw seventeen names. If any member declines to serve on the Trial Committee another name shall be drawn. The accused member and the charging member shall each have the right to strike five names. The first seven of the names remaining shall constitute the trial committee, five of whom shall constitute a quorum.

If the quorum for a Local's regular meeting is less than twenty, eleven names shall be drawn and each side's right to strike shall be limited to three names and the remaining five names shall constitute the Trial Committee, three of which shall constitute a quorum.

2. When the Accused is not Present:

When charges are properly made against any member of the Organization and are properly served against the member of the Organization, and when said member is not present when the Trial Committee is selected, the procedure shall be as follows:

The accused may designate any person to act as his representative and in such event, the procedure for the selection of the Trial Committee shall be the same as if the accused was present. In the absence of such designated representative for the accused, the presiding officer at the meeting shall draw seven names. If any member declines to serve on the Trial Committee, another name shall be drawn. These seven names shall constitute the Trial Committee, five of whom shall constitute a quorum.

If the quorum for a Local's regular meeting is less than twenty, the presiding officer shall draw five names. If any member declines to serve on the Trial Committee, another name shall be drawn. These five names shall constitute the Trial Committee, three of which shall constitute a quorum.

Summary Discipline. In addition to the positive requirements of section 101(a) (5), the overall effect of the section, it would seem, is to prohibit or sharply limit summary discipline of members other than for nonpayment of dues.⁵⁰

⁵⁰ The legislative history indicates that the 101(a) (5) requirements are applicable only to members, and not to officers, in the following language: "In paragraph (5), relating to safeguards against improper disciplinary action, it should be noted that the prohibition on suspension without observing certain safeguards applies only to suspension of membership in the union; it does not refer to suspension of a member's status as an officer in the union." (H.R. Rep. 1147, 86th Cong. 1st sess. 1959.)

Some observers have questioned whether sec. 101(a) (5) prohibits all summary discipline of members. For example, Edward Hickey, Jr., has said: "On its face, sec. 101(a) (5) of the act would prohibit summary action of any kind, but possible correlation of its provisions with the right of a union under sec. 101(a) (2) not only to adopt reasonable rules as to a member's responsibility to his union as an institution but also to enforce such rules, may save the provision in sec. 101(a) (5) from this unrealistic application." (48 Geo. L. J. 226, 236 (1959)).

Twenty of the constitutions studied were amended to abolish some or all forms of summary discipline. The Furniture Workers, Boilermakers, and Railway Carmen were among those that abolished summary discipline entirely. The constitution of the Printing Pressmen was amended to abolish summary discipline of members (for reasons other than nonpayment of dues) by the addition, in 1961, of the following section:

Notwithstanding any other article or section of this constitution, any provision thereof which provides for the imposition AGAINST AN INDIVIDUAL MEMBER of any penalty, forfeiture, suspension, expulsion, revocation or any other disciplinary action, is hereby amended to require the filing and service of written charges against any member of a subordinate union charged with a violation of any article or section of this constitution and laws, except nonpayment of dues, a reasonable opportunity for such member or subordinate union to prepare a defense which is defined as not less than 15 days following the service of said written charges and a hearing thereon before an impartial trial board constituted in accordance with this constitution and laws . . . (author's emphasis)

Other unions abolished summary discipline for certain offenses. For instance, the Auto Workers' and Masters, Mates and Pilots' constitutions no longer permit summary discipline for resort to court, while persons charged with dual unionism may no longer be punished summarily under the constitution of the Hotel and Restaurant Employees. On the other hand, the Potters appear to have added summary discipline for resort to court, by adopting the following amendment, effective July 1, 1960:

Any member or members . . . attempting to, or actually resorting to court action in an attempt to redress an actual, or so-called grievance against any member . . . or an act of the Convention or any authorized agent or agents thereto, without first exhausting every possible effort to redress the grievance under the . . . Constitution, shall be considered as a (sic) violation of the Constitution AND DEALT WITH UNDER APPROPRIATE LAWS OF THE INTERNATIONAL BROTHERHOOD OF POTTERS and suspended by the Executive Board. Bracketed words deleted; underscored words added.

A third group of unions, which included the Clothing Workers, Communications Workers, and Bricklayers, amended their constitutional provisions relating to summary discipline for nonpayment of dues to conform to the 1959 law. The nature of these amendments was to limit summary discipline strictly to the nonpayment of dues, as against nonpayment of fines and assessments. Thus, for example, the Communications Workers in 1960 made the following change in its constitution:

A member in default, without good cause, in the payment of any installment of dues or any fine or assessment for sixty (60) days from the day such amount becomes due, shall be automatically suspended . . . Bracketed words deleted.

Some of the summary discipline amendments provided protections beyond the requirements of the 1959 law. For example, the Clothing Workers not only limited their summary discipline provision to nonpayment of dues, rather than dues or assessments, but also further specified that even nonpayment of dues would not result in summary discipline if the member "is unemployed because of a plant shutdown, inability to obtain work or illness." The Chairman of the Committee on Law and Constitution reported to the Clothing Workers' 1960 convention that the foregoing amendment "affords our members greater protection

than that required by law." In other unions, protections that appeared to go beyond the requirements of the law were in the form of deleting summary discipline for officers.⁵¹ For example, in 1960 the Railroad Trainmen amended the provision of its constitution dealing with the duties of the international president, as follows:

He shall not have power to suspend or remove any subordinate lodge officer or Committee or board member except when they are charged with violation of the Constitution or of their obligation as an officer, and not then until said officer or committee or board member shall have had a fair trial in his own lodge. (author's emphasis)

Although numerous other changes in discipline provisions were made in union constitutions, they followed no particular pattern. In 1960 constitutions, changes were noted that were obviously the result of the 1959 law. For instance, in 1960 the Operating Engineers adopted the following amendment:

. . . Any . . . member publishing or circulating literature of a defamatory nature in violation of their responsibility toward the International Union or any of its subordinate bodies as an institution . . . may be disciplined . . . (author's emphasis)

It will be noted that this new language, "responsibility . . . toward the [o]rganization as an institution" is drawn from the "free speech" provision of the 1959 Act (section 101(a) (2)). The Marble, Slate and Stone Polishers' constitution was also amended to conform to the free speech provision, in the following manner:

No . . . officer . . . or member . . . shall send out or publish any circulars, letters, writings or printed matter of any kind or give out any interviews for general distribution, either privately or publicly, villifying or impugning the honesty or character of any officer or member . . . [WITHOUT FIRST SUBMITTING SUCH CIRCULARS, LETTERS, WRITINGS, PRINTED MATTER, OR INTERVIEWS TO THE GENERAL EXECUTIVE COUNCIL AND SECURING ITS CONSENT AND APPROVAL THERETO . . .] [Bracketed words deleted]

In some constitutions, amendments could not be related to specific requirements of the LMRDA. In a number of instances, moreover, the changes differed from those made by other unions. For instance, with regard to whether a decision is stayed pending an appeal, seven unions adopted provisions authorizing the appeal body to stay the decision at its discretion, three unions adopted provisions prohibiting a stay. To indicate the divergence further, with regard to five constitutions that previously had no provision concerning the status of an accused during appeal, two adopted "no stay" provisions, two adopted "automatic stay" provisions, and one adopted an "optional stay" provision.

Lack of uniformity was also noted in other areas. For instance, the Airline Dispatchers adopted a provision requiring charges to be filed within a year of the date of the alleged offense; the Seafarers, on the other hand, dropped a provision which called for charges to be filed within 90 days from the date "the grievance arose."

Illustrative Constitutions

To illustrate the scope and complexity of discipline procedures in their entirety, and the specific changes enacted since the passage of the LMRDA, pertinent clauses are shown in appendix D for two unions, the International Association of Machinists and International Brotherhood of Teamsters.

⁵¹ Sec. 101(a) (5) applies to members only. See supra, footnote 50.

Selected Sections from the Labor-Management Reporting and Disclosure Act of 1959

Section 101(a) (1)

EQUAL RIGHTS. Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings, and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

Section 101(a) (2)

Freedom of Speech and Assembly. Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: Provided, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

Section 101(a) (4)

Protection of the Right To Sue. No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: Provided, That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof: And provided further, That no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

Section 101(a) (5)

Safeguards Against Improper Disciplinary Action. No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

Section 101(b)

Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall be of no force or effect.

Sections 201(a) (5) (H) and 201(a) (5) (I):

Every labor organization shall adopt a constitution and bylaws and shall file a copy thereof with the Secretary, together with a report, signed by its president and secretary or corresponding principal officers, containing the following information . . .

(5) detailed statements, or references to specific provisions of documents filed under this subsection which contain such statements, showing the provision made and procedures followed with respect to each of the following:

. . . (H) discipline or removal of officers or agents for breaches of their trust, (I) imposition of fines, suspensions, and expulsions of members, including the grounds for such action and any provision made for notice, hearing, judgment on the evidence and appeal procedures. . . .

Section 401(c)

Every national or international labor organization, except a federation of national or international labor organizations, and every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate for office in such labor organization in the district court of the United States in which such labor organization maintains its principal office, to comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense campaign literature in aid of such person's candidacy to all members in good standing of such labor organization and to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members, and whenever such labor organizations or its officers authorize the distribution by mail or otherwise to members of campaign literature on behalf of any candidate or of the labor organization itself with reference to such election, similar distribution at the request of any other bona fide candidate shall be made by such labor organization and its officers, with equal treatment as to the expense of such distribution. Every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof. Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.

Section 401(e)

In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 and to reasonable qualifications uniformly imposed) and shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof. Not less than 15 days prior to the election notice thereof shall be mailed to each member at his last known home address. Each member in good standing shall be entitled to one vote. No member whose dues have been withheld by his employer for payment to such organization pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or be a candidate for office in such organization by reason of alleged delay or default in the payment of dues. The votes cast by members of each local labor organization shall be counted, and the results published, separately. The election officials designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for 1 year the ballots and all other records pertaining to the election. The election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title.

Section 401(h)

If the Secretary, upon application of any member of a local labor organization, finds after hearing in accordance with the Administrative Procedure Act that the constitution and bylaws of such labor organization do not provide an adequate procedure for the removal of an elected officer guilty of serious misconduct, such officer may be removed, for cause shown and after notice and hearing, by the members in good standing voting in a secret ballot conducted by the officers of such labor organization in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of this title.

Section 401(i)

The Secretary shall promulgate rules and regulations prescribing minimum standards and procedures for determining the adequacy of the removal procedures to which reference is made in subsection (h).

Section 402(a)

A member of a labor organization—

(1) who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body, or

(2) who has invoked such available remedies without obtaining a final decision within three calendar months after their invocation, may file a complaint with the Secretary within one calendar month thereafter alleging the violation of any provision of section 401 (including violation of the constitution and bylaws of the labor organization pertaining to the election and removal of officers). The challenged election shall be presumed valid pending a final decision thereon (as hereinafter provided) and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide:

Section 504

(a) No person who is or has been a member of the Communist Party or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act, or conspiracy to commit any such crimes, shall serve—

(1) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, or other employee (other than as an employee performing exclusively clerical or custodial duties) of any labor organization, or

(2) as a labor relations consultant to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee (other than as an employee performing exclusively clerical or custodial duties) of any group or association of employers dealing with any labor organization,

during or for 5 years after the termination of his membership in the Communist Party, or for 5 years after such conviction or after the end of such imprisonment, unless prior to the end of such 5-year period, in the case of a person so

convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. Prior to making any such determination, the Board shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final. No labor organization or officer thereof shall knowingly permit any person to assume or hold any office or paid position in violation of this subsection.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

(c) For the purposes of this section, any person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this Act.

Section 609

It shall be unlawful for any labor organization, or any officer, agent, shop steward, or other representative of a labor organization, or any employee thereof to fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of this Act. The provisions of section 102 shall be applicable in the enforcement of this section.

Section 610

It shall be unlawful for any reason through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this Act. Any person who wilfully violates this section shall be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

Appendix A:

Listing of National and International Unions Studied

Union ¹	Member- ship ²	Date of constitution studied
Agricultural Workers Union; National -----	4,500	Undated
Air Line Communication Employees Association (Ind) -----	1,800	1952
Air Line Dispatchers Association -----	630	1959
Air Line Pilots Association; International -----	13,664	1958
Aluminum Workers International Union -----	24,000	1957
Asbestos Workers; International Association of Heat and Frost Insulators and -----	13,700	1960
Associated Unions of America (Ind) -----	5,850	1959
Automobile, Aerospace and Agricultural Implement Workers of America; International Union, United -----	1,027,000	1959
Bakery and Confectionery Workers' International Union; American -----	71,500	1958
Bakery and Confectionery Workers' International Union of America (Ind) -----	88,077	1958
Barbers, Hairdressers, Cosmetologists and Proprietors' International Union of America; Journeymen -----	73,000	1959
Bill Posters, Billers and Distributors of the United States and Canada; International Alliance of -----	1,600	1958
Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; International Brotherhood of -----	132,356	1957
Bookbinders; International Brotherhood of -----	59,000	1959
Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America; International Union of United -----	62,000	1959
Brick and Clay Workers of America; United -----	23,500	1959
Bricklayers, Masons and Plasterers' International Union of America -----	159,126	1958
Broadcast Employees and Technicians; National Association of -----	5,702	1959
Broom and Whisk Makers' Union of America; International -----	1,000	1946
Building Service Employees' International Union -----	260,000	1955
Carpenters and Joiners of America; United Brotherhood of -----	835,000	1959
Cement, Lime and Gypsum Workers International Union; United -----	39,746	1959
Chemical Workers Union; International -----	81,144	1960
Christian Labor Association of the United States of America (Ind)-----	1,200	1958
Cigar Makers' International Union of America -----	6,294	1956
Clothing Workers of America; Amalgamated -----	376,000	1955
Communications Association; American (Ind) -----	8,000	1959
Communications Workers of America -----	255,365	1960
Coopers' International Union of North America -----	3,951	1959
Die Sinkers' Conference; International (Ind) -----	6,000	1957
Distillery, Rectifying and Wine Workers' International Union of America -----	33,000	1954
Electrical, Radio and Machine Workers; International Union of -----	278,281	1959
Electrical, Radio and Machine Workers of America; United (Ind) -----	160,000	1959
Electrical Workers; International Brotherhood of -----	750,000	1959
Elevator Constructors; International Union of -----	9,855	1956
Engineers; American Federation of Technical -----	12,450	1958
Engineers Association; Technical (Ind) -----	807	1957
Engineers; International Union of Operating -----	280,000	1960
Engravers and Sketchmakers; Friendly Society of (Ind) -----	525	1955

See footnotes at end of table.

Listing of National and International Unions Studied—Continued

Union ¹	Member-ship ²	Date of constitution studied
Firemen and Oilers; International Brotherhood of -----	55,000	1956
Flight Engineers' International Association -----	3,200	1958
Furniture Workers of America; United -----	50,000	1958
Garment Workers of America; United -----	35,000	1957
Garment Workers' Union; International Ladies' -----	442,901	1959
Glass Bottle Blowers Association of the United States and Canada -----	53,500	1957
Glass and Ceramic Workers of North America; United -----	52,500	1960
Glass Cutters League of America; Window -----	1,600	1959
Glass Workers' Union of North America; American Flint -----	26,619	1959
Glove Workers' Union of America; International -----	2,538	1959
Grain Millers; American Federation of -----	35,000	1958
Granite Cutters' International Association of America; The -----	3,500	1960
Guard Workers of America; United Plant (Ind) -----	12,580	1958
Guards Union of America; International (Ind) ³ -----	2,600	1958
Hatters, Cap and Millinery Workers International Union; United -----	40,000	1959
Hod Carriers', Building and Common Laborers' Union of America; International -----	476,598	1956
Horseshoers of the United States and Canada; International Union of Journeymen -----	281	1957
Hosiery Workers; American Federation of -----	5,875	1957
Hotel and Restaurant Employees and Bartenders International Union -----	436,315	1957
Industrial Workers of America; International Union, Allied -----	80,000	1959
Industrial Workers Union; National (Ind) -----	150	1959
Insurance Agents; International Union of Life (Ind) -----	2,000	1959
Insurance Workers International Union -----	22,650	1959
Iron Workers; International Association of Bridge, Structural and Ornamental -----	152,389	1956
Jewelry Workers' Union; International -----	20,000	1959
Lace Operatives of America; Amalgamated (Ind) -----	4,000	Undated
Lathers International Union; The Wood, Wire and Metal -----	18,000	1960
Laundry and Dry Cleaning International Union -----	20,307	1958
Laundry, Dry Cleaning and Dye House Workers International Union (Ind) -----	76,240	1960
Leather Goods, Plastic and Novelty Workers' Union; International -----	28,500	1957
Leather Workers International Union of America -----	10,000	1959
Lithographers of America; Amalgamated (Ind) -----	35,087	1958
Locomotive Engineers; Brotherhood of (Ind) -----	50,000	1956
Locomotive Firemen and Enginemen; Brotherhood of -----	78,412	1960
Longshoremen's Association; International -----	90,000	1959
Longshoremen's and Warehousemen's Union; International (Ind) -----	56,000	1959
Machine Printers' Beneficial Association of the United States (Ind) -----	1,000	1957
Machinists; International Association of -----	992,689	1961
Mailers Union; International (Ind) -----	4,200	1960
Maintenance of Way Employes; Brotherhood of -----	183,000	1958
Marble, Slate and Stone Polishers, Rubbers and Sawyers, Tile and Marble Setters' Helpers and Marble Mosaic and Terrazzo Workers' Helpers; International Association of -----	9,788	1960
Marine Engineers' Beneficial Association; National -----	8,000	1959
Marine and Shipbuilding Workers of America; Industrial Union of -----	50,000	1958
Maritime Union of America; National -----	40,000	1960

See footnotes at end of table.

Listing of National and International Unions Studied—Continued

Union ¹	Member- ship ²	Date of constitution studied
Masters, Mates and Pilots; International Organization of ----- Meat Cutters and Butcher Workmen of North America; Amalgamated -----	9,050 325,304	1960 1956
Mechanics Educational Society of America ----- Metal Polishers, Buffers, Platers and Helpers International Union -----	41,325 14,000	1959 1960
Mine, Mill and Smelter Workers; International Union of (Ind) ----- Mine Workers of America; United (Ind) ----- Molders' and Allied Workers' Union of North America; International -----	100,000 600,000 73,209	1959 1960 1959
Musicians; American Federation of ----- Newspaper Guild; American ----- Newspaper and Mail Deliverers' Union of New York and Vicinity (Ind) -----	262,882 30,430 4,000	1959 1960 1959
Office Employes International Union ----- Oil, Chemical and Atomic Workers International Union -----	45,960 180,175	1959 1959
Packinghouse Workers; National Brotherhood of (Ind) ----- Packinghouse, Food and Allied Workers; United ----- Painters, Decorators and Paperhangers of America; Brotherhood of -----	6,500 157,690 184,502	1959 1958 1960
Papermakers and Paperworkers; United ----- Pattern Makers' League of North America ----- Petroleum Workers, Inc.; International Union of (Ind) ----- Photo-Engravers' Union of North America; International ----- Plasterers' and Cement Masons' International Association of the United States and Canada; Operative -----	135,000 15,000 3,344 16,928 65,881	1957 1958 1959 1959 1960
Plate Printers', Die Stampers' and Engravers' Union of North America; International ----- Plumbing and Pipe Fitting Industry of the United States and Canada; United Association of Journeymen and Apprentices of the ----- Porters; Brotherhood of Sleeping Car ----- Potters; International Brotherhood of Operative ----- Printing Pressmen and Assistants' Union of North America; International -----	800 255,800 8,000 22,547 110,500	1947 1956 1956 1960 1956
Pulp, Sulphite and Paper Mill Workers; International Brotherhood of ----- Radio Association; American ----- Railroad Signalmen; Brotherhood of -----	165,000 1,000 14,000	1959 1956 1960
Railroad Telegraphers; The Order of ----- Railroad Trainmen; Brotherhood of ----- Railroad Yardmasters of America ----- Railroad Yardmasters of North America, Inc. (Ind) ----- Railway Carmen of America; Brotherhood ----- Railway Conductors and Brakemen; Order of (Ind) ----- Railway Employees; International Association of (Ind) ----- Railway Patrolmen's International Union ----- Railway and Steamship Clerks, Freight Handlers, Express and Station Employes; Brotherhood of -----	62,276 200,111 4,000 1,500 156,900 26,532 400 3,000 360,899	1956 1960 1954 1946 1960 1958 1956 1958 1959
Railway and Airline Supervisors Association; The American ----- Railway Trainmen and Locomotive Firemen; Association of (Ind) ----- Retail Clerks International Association ----- Retail, Wholesale and Department Store Union -----	5,974 1,000 305,000 160,000	1957 1948 1959 1958

See footnotes at end of table.

Listing of National and International Unions Studied—Continued

Union ¹	Memper- ship ²	Date of constitution studied
Roofers, Damp and Waterproof Workers Association; United Slate, Tile and Composition	20,861	1958
Rubber, Cork, Linoleum and Plastic Workers of America; United	158,570	1960
Seafarers' International Union of North America	75,000	1957
Sheet Metal Workers' International Association	75,000	1958
Shoe and Allied Craftsmen; Brotherhood of (Ind)	4,300	1959
Shoe Workers of America; United	58,000	1959
Shoe Workers' Union; Boot and	40,000	1957
Siderographers; International Association of	40	1959
Stage Employes and Moving Picture Machine Operators of the United States and Canada; International Alliance of Theatrical	64,607	1956
Steelworkers of America; United	960,000	1960
Stereotypers' and Electrotypers' Union of North America; International	14,000	1960
Stone and Allied Products Workers of America; United	11,815	1958
Stone Cutters Association of North America; Journeymen	1,900	1957
Stove Mounters' International Union of North America	7,265	1959
Street, Electric Railway and Motor Coach Employes of America; Amalgamated Association of	124,637	1959
Switchmen's Union of North America	18,800	1959
Teamsters, Chauffeurs, Warehousemen and Helpers of America; International Brotherhood of (Ind)	1,418,246	1957
Telegraphers' Union; The Commercial	29,262	1959
Textile Workers of America; United	46,000	1956
Textile Workers Union of America	197,200	1958
Tobacco Workers International Union	34,894	1956
Tool Craftsmen; International Association of (Ind)	750	1958
Toy Workers of the United States and Canada; International Union of Doll and	18,900	1958
Train Dispatchers Association; American	4,198	1956
Transport Service Employees; United	3,000	1958
Transport Workers Union of America	135,000	1957
Typographical Union; International	110,449	1960
Upholsterers' International Union of North America	56,101	1956
Utility Workers of New England, Inc.; Brotherhood of (Ind)	4,600	1958
Utility Workers Union of America	66,000	1959
Watch Workers Union; American (Ind)	2,510	1954
Watchmen's Association; Independent (Ind)	3,000	1960
Weldors; International Union, United (Ind)	1,500	1959
Woodworkers of America; International	86,620	1959

¹ Affiliated with AFL-CIO, unless otherwise indicated.

² Membership figures are those reported in the Directory of National and International Labor Unions in the United States, 1959 (BLS Bulletin 1267). For later membership figures, see 1961 Directory (BLS Bulletin 1320).

³ Not included in 1959 Directory, membership figure reported directly to Bureau in 1960.

Appendix B

Table B-1. International Level Decision Authority, National and International Union Constitutions, Early 1961

(Members in thousands)

Decision authority	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
All constitutions providing for trial at the international level -----	116	13,515.0	92	10,970.1	24	2,544.9
Constitutions providing 1 decision authority for all cases -----	93	9,084.6	73	7,979.5	20	1,105.1
Executive board -----	69	6,991.1	53	6,042.1	16	949.0
President -----	19	1,946.6	17	1,820.4	2	126.2
Convention -----	2	67.9	1	41.3	1	26.5
Other decision authorities -----	13	79.0	2	75.7	1	3.3
Constitutions providing 2 or more decision authorities -----	23	4,430.4	19	2,990.6	4	1,439.8
Executive board decided the cases it heard; president decided the cases he heard -----	15	2,755.5	13	1,324.6	2	1,430.8
Executive board decided the cases it heard, while the convention decided the cases it heard -----	3	31.5	1	22.5	2	9.0
Other decision authorities -----	25	1,643.4	5	1,643.4	-	-

¹ Under 2 constitutions, permanent committees rendered decisions, and under 1 constitution, decisions were rendered by the persons selected by the parties.

² Under 1 constitution, decision authority was vested in the president, executive board, or convention for cases tried by each body; under 1 constitution, decision authority was vested in the president or convention for cases tried by each body; under 1 constitution, the executive board decided cases heard by it as did a permanent committee; under 1 constitution, persons selected by the parties rendered all decisions except that those involving suspension or expulsion were to be approved by the executive board; and under 1 constitution, a permanent committee rendered all decisions except that fines of more than \$25 were subject to approval by the executive board.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table B-2. Role of the President and Executive Board in International Disciplinary Procedures, National and International Union Constitutions, Early 1961

(Members in thousands)

Role of president and executive board	Total studied		Affiliation			
	Unions	Members	AFL-CIO		Unaffiliated	
			Unions	Members	Unions	Members
Total trial provisions	116	13,515.0	92	10,970.1	24	2,544.9
President or executive board performs functions	69	8,792.9	62	6,724.8	7	2,068.1
Invoke, trial, and decide	30	3,054.6	28	3,048.0	2	6.5
Invoke and decide	2	477.9	2	477.9	-	-
Invoke, trial, decide, and appeal	6	2,647.7	5	1,229.5	1	1,418.2
Trial and decide	4	231.3	4	231.3	-	-
Trial, decide, and appeal	3	881.7	2	281.7	1	600.0
Suspend, invoke, trial, and decide	17	1,171.8	15	1,155.0	2	16.8
Suspend, invoke, trial, decide, and appeal	2	172.4	2	172.4	-	-
Other	¹ 5	155.5	4	129.0	1	26.5
Executive board only performs functions	36	3,132.6	21	2,709.1	15	423.5
Invoke, trial, and decide	12	2,559.6	10	2,396.6	2	163.0
Trial and decide	16	392.6	8	306.5	8	86.1
Trial, decide, and appeal	2	6.1	-	-	2	6.1
Trial and appeal	2	5.0	2	5.0	-	-
Suspend, invoke, trial, and decide	2	77.2	1	1.0	1	76.2
Other	² 2	92.1	-	-	2	92.1
President only performs functions	9	1,544.9	8	1,494.9	1	50.0
Invoke, trial, and decide	6	189.7	5	139.7	1	50.0
Trial and decide	3	1,355.2	3	1,355.2	-	-
No reference to president or executive board on these functions	³ 2	44.7	1	41.3	1	3.3

¹ Under 1 constitution, their role was limited to invoking trial procedures; under 1 constitution, they invoked and held trials; under 1 constitution, they suspended, held trials, and rendered a final decision; under 1 constitution, they suspended and rendered final appellate decisions; and under 1 constitution, their role was limited to rendering final appellate decisions.

² Under 1 constitution, the president invoked and held trials; and under 1 constitution he was authorized to invoke, hold trials, render decisions after trial, and render final appellate decisions.

³ Under 1 constitution, any member invoked jurisdiction by filing charges directly with the convention; and under 1 constitution, any member invoked jurisdiction and a trial body selected by the parties heard and decided the case.

NOTE: Because of rounding, sums of individual items may not equal totals.

Appendix C

Table C-1. Concentration of Selected Hearing Safeguards in Local Union Trial Procedures, National and International Union Constitutions, Early 1961

Number of safeguards	Total studied	Selected hearing safeguards					
		Full and fair hearing	Notice of hearing	Impartial trial body	Continuance or postpone-ment	Counsel	Introduce evidence
All constitutions providing local trial procedures -----	136	55	116	58	15	96	56
1 safeguard -----	5	2	1	-	-	1	-
2 safeguards -----	14	5	11	2	-	1	1
3 safeguards -----	11	4	9	2	2	7	1
4 safeguards -----	18	4	15	3	-	14	6
5 safeguards -----	19	7	17	8	1	15	7
6 safeguards -----	21	12	19	13	-	18	10
7 safeguards -----	16	5	16	8	2	14	9
8 safeguards -----	13	9	13	9	5	12	10
9 safeguards -----	7	4	7	5	1	7	4
10 safeguards -----	4	1	4	4	1	3	4
11 safeguards -----	2	-	2	2	2	2	2
12 safeguards -----	2	2	2	2	1	2	2
No selected safeguards -----	4	-	-	-	-	-	-
		Invite witnesses	Testimony under oath	Confront and cross-examine	Testify on his own behalf	Record of proceedings	Other safeguards ¹
All constitutions providing local trial procedures -----		58	12	45	54	45	114
1 safeguard -----		-	-	-	-	-	1
2 safeguards -----		1	-	-	3	-	4
3 safeguards -----		-	-	1	-	1	6
4 safeguards -----		4	-	6	8	5	7
5 safeguards -----		8	-	6	10	4	12
6 safeguards -----		10	2	4	8	10	20
7 safeguards -----		13	3	8	9	6	19
8 safeguards -----		10	2	8	8	5	13
9 safeguards -----		5	1	4	3	6	16
10 safeguards -----		4	1	4	4	4	6
11 safeguards -----		2	1	2	-	2	5
12 safeguards -----		1	2	2	1	2	5
No selected safeguards -----		-	-	-	-	-	-

¹ These safeguards included the rights to a speedy trial, subpoena witnesses, separate witnesses, change venue, submit a written defense, representation when unable to attend the hearing, present a defense when the trial body's recommendations are submitted to the membership, double jeopardy provisions, and notice of decision.

Table C-2. Concentration of Selected Hearing Safeguards in International Trial Procedures, National and International Union Constitutions, Early 1961

Number of safeguards	Total studied	Selected hearing safeguards					
		Full and fair hearing	Notice of hearing	Impartial trial body	Speedy trial	Counsel	Introduce evidence
All constitutions providing for trial at the international level -----	116	37	69	26	26	50	39
1 safeguard -----	18	6	2	2	2	1	1
2 safeguards -----	14	4	9	2	2	2	1
3 safeguards -----	12	4	11	1	3	3	2
4 safeguards -----	11	4	8	2	2	5	7
5 safeguards -----	7	4	6	-	2	6	2
6 safeguards -----	9	2	7	3	3	6	7
7 safeguards -----	11	3	11	5	4	11	6
8 safeguards -----	8	6	6	2	3	7	6
9 safeguards -----	3	2	3	3	1	3	3
10 safeguards -----	5	2	5	5	3	5	3
11 safeguards -----	1	-	1	1	1	1	1
No selected safeguards -----	17	-	-	-	-	-	-
		Invite witnesses	Confront and cross-examine	Testify on his own behalf	Notice of decision	Record of proceedings	Other safeguards ¹
All constitutions providing for trial at the international level -----		29	26	45	32	28	37
1 safeguard -----		-	-	4	-	-	-
2 safeguards -----		-	-	4	-	3	1
3 safeguards -----		1	2	2	3	1	3
4 safeguards -----		3	2	5	3	1	2
5 safeguards -----		3	1	3	4	2	2
6 safeguards -----		4	2	7	5	4	4
7 safeguards -----		5	5	8	7	6	6
8 safeguards -----		5	6	4	5	5	9
9 safeguards -----		2	3	3	-	2	2
10 safeguards -----		5	4	4	4	3	7
11 safeguards -----		1	1	1	1	1	1
No selected safeguards -----		-	-	-	-	-	-

¹ These safeguards included the rights to subpoena witnesses, change venue, request a continuance or postponement, representation by another when unable to attend the hearing, and submit a written defense.

Table C-3. Maximum Time Limits to Convene the Trial Body in Local Union Trial Procedures, National and International Union Constitutions, Early 1961

(Members in thousands)

Time specified	Total studied		Time limit to convene begins—							
	Un-ions	Mem-bers	From time charges filed		From notice of hearing		From meeting at which charges accepted		Other points	
			Un-ions	Mem-bers	Un-ions	Mem-bers	Un-ions	Mem-bers	Un-ions	Mem-bers
All constitutions limiting the time allowed to convene at the local level	49	8,582.6	26	5,972.1	9	1,580.7	9	531.7	5	498.1
Specific time periods	35	4,864.9	15	2,620.4	9	1,580.7	8	485.7	3	178.1
Within 15 days	9	661.7	1	360.9	4	220.1	3	79.5	1	156.9
Within 30 days	19	2,866.1	8	1,106.8	4	1,176.1	5	406.2	2	21.2
Within 60 days	7	1,337.1	6	1,152.6	1	184.5	-	-	-	-
General time periods	14	3,717.7	11	3,351.7	-	-	1	46.0	2	320.0
Reasonable time	12	3,391.7	11	3,351.7	-	-	-	-	3	40.0
Next meeting	2	326.0	-	-	-	-	1	46.0	4	280.0

¹ Under this constitution, the local union was required to try strikebreakers within 15 days of the offense.

² Under 1 constitution, local officers were tried within 30 days of suspension, but no reference was provided for members; and under 1 constitution, trials of local officers were held within 30 days of the trial body's election, but no reference was provided for members.

³ Under this constitution, the trial convened promptly after charges were filed when the accused was suspended prior to filing charges.

⁴ Under this constitution, the trial was held at the next meeting following the meeting at which the accused's answer was filed. The accused was allowed 4 weeks from the time charges were filed to submit his answer.

NOTE: Because of rounding, sums of individual items may not equal totals.

Table C-4. Maximum Time Limits to Convene the Trial Body in International Level Trial Procedures, National and International Union Constitutions, Early 1961

(Members in thousands)

Time specified	Total studied		Time limit to convene begins—							
	Un-ions	Mem-bers	From time charges filed		From sus-pension		From preliminary review		From accused's request	
			Un-ions	Mem-bers	Un-ions	Mem-bers	Un-ions	Mem-bers	Un-ions	Mem-bers
All constitutions limiting the time allowed to convene at the international level	33	3,676.9	15	1,926.0	13	1,424.9	4	263.8	1	62.3
Specified time periods	16	1,480.4	8	947.8	5	438.9	2	31.4	1	62.3
Within 15 days	5	660.4	1	442.9	3	216.5	1	1.0	-	-
Within 30 days	7	601.1	4	316.4	2	222.4	-	-	1	62.3
Within 60 days	4	218.9	3	188.5	-	-	1	30.4	-	-
General time periods	17	2,196.5	7	978.2	8	986.0	2	232.4	-	-
Reasonable	13	1,975.8	5	960.5	6	782.9	2	232.4	-	-
Next meeting	4	220.7	2	17.7	2	203.1	-	-	-	-

NOTE: Because of rounding, sums of individual items may not equal totals.

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p style="text-align: center;">Introduction of Unqualified Persons</p> <p>Section 7. Members who introduce into the trade any person other than a member of the I. A. M., shall be heavily fined for the first offense and expelled for the second offense. This Section shall not be construed to refer to apprentices properly indentured.</p>	<p>Section 7. Renumbered Section 6. Following words added at end of first sentence: "After charges and trial for misconduct as provided in Article L."</p>
<p style="text-align: center;">Misrepresentation</p> <p>Section 8. Any applicant admitted to membership who has falsified his application for initiation or reinstatement, shall be subject to fine or expulsion, or both.</p> <p>Members who falsely represent themselves to be competent workmen, shall be fined or expelled at the discretion of the L.L. of which they are members.</p>	<p>Section 8. Same. Renumbered Section 7.</p>
<p style="text-align: center;">Inebriety</p> <p>Section 9. Members entering the L. L. room while under the influence of intoxicating drinks, or who are guilty of using indecent or profane language therein, shall be reprimanded, fined, suspended or expelled, at the option of the L. L. Habitual drunkenness or conduct disgraceful to themselves or associates shall be punished by expulsion.</p>	<p>Section 9. Replaced by the following:</p> <p style="text-align: center;">Disorderly Conduct</p> <p>Section 8. Members entering the L. L. room while under the influence of intoxicating drinks, or who are guilty of using indecent or profane language therein, shall be excluded therefrom upon order of the presiding officer and shall be subject to penalty of reprimand, fine, suspension or expulsion after charges and trial as provided in Article L. Members, if guilty of habitual drunkenness or conduct disgraceful to themselves or associates, shall be subject to the penalty of expulsion from membership after charges and trial.</p>
<p style="text-align: center;">Article K</p> <p style="text-align: center;">Code</p> <p>Improper Conduct of Local Lodges, District Lodges, and Members Thereof</p> <p>Section 1. The following actions or omissions shall constitute misconduct by a L. L. or D. L. which shall warrant suspension or revocation of the charter thereof as the evidence may warrant:</p> <p>Circulating or causing in any manner to be circulated any false or malicious statement reflecting upon the private or public conduct,</p>	<p style="text-align: center;">Article L</p> <p>Heading changed as follows: Improper Conduct of Local Lodges, District Lodges, Councils and Conferences, and Members Thereof.</p> <p>Section 1. Lines 2, 3, and 19, the language "L.L. or D.L." changed to read: L. L., D. L., council or conference."</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 1.—Continued</p> <p>or falsely or maliciously attacking the character, impugning the motives, or questioning the integrity of any officer or member of the I. A. M.</p> <p>Failure to perform duties as provided in this Constitution or violation of any of the provisions of this Constitution.</p> <p>Insubordination with respect to valid orders or directives of officers and/or the convention of the G. L. of the I. A. M.</p> <p>Any conduct unbecoming a L. L. or D. L. which is detrimental to the best interests of the I. A. M.</p> <p style="text-align: center;">Improper Conduct of Officers and Representatives</p> <p>Section 2. The following actions or omissions shall constitute misconduct by any officer of a L. L. or D. L., or by any business representative or representative of a L. L. or D. L., which shall warrant a reprimand, fine, removal from office, suspension from office and/or membership, or expulsion from membership, or any lesser penalty such as an apology, or any combination of these penalties as the evidence may warrant:</p> <p>Any of the actions set forth in Section 3 of this Article with respect to misconduct of a member.</p> <p>Incompetence, negligence, or insubordination in the performance of official duties or failure to perform duties validly assigned.</p> <p>Actions constituting a violation of the provisions of this Constitution.</p> <p style="text-align: center;">Improper Conduct of a Member</p> <p>Section 3. The following actions or omissions shall constitute misconduct by a member which shall warrant a reprimand, fine, suspension and/or expulsion from membership, or any lesser penalty or any combination of these penalties as the evidence may warrant:</p> <p>Circulating or causing in any manner to be circulated any false or malicious statement reflecting upon the private or public conduct, or falsely or maliciously attacking the character, impugning the motives, or</p>	<p>Section 2. Replaced by the following:</p> <p style="text-align: center;">Improper Conduct of Officers and Representatives</p> <p>Section 2. The following actions or omissions shall constitute misconduct by any officer of a L. L., D. L., council or conference, or by any business representative or representative of a L. L. or D. L. which shall warrant a reprimand, removal from office and/or disqualification from holding office for not more than 5 years, suspension from office, or any lesser penalty or any combination of these penalties as the evidence may warrant:</p> <p>Incompetence, negligence or insubordination in the performance of official duties or failure or refusal to perform duties validly assigned.</p> <p style="text-align: center;">Improper Conduct of a Member</p> <p>Section 3. The following actions or omissions shall constitute misconduct by a member which shall warrant a reprimand, fine, suspension and/or expulsion from membership, or any lesser penalty or any combination of these penalties as the evidence may warrant after written and specific charges and a full hearing as hereinafter provided:</p> <p>Circulating or causing in any manner to be circulated any false or malicious statement reflecting upon the private or public</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 3.—Continued</p> <p>questioning the integrity of any member or officer.</p> <p>Refusal or failure to perform any duty or obligation imposed by this Constitution; the established policies of the I. A. M.; the valid decisions and directives of any officer or officers thereof; or, the valid decisions of the E. C. or the G. L. convention.</p> <p>Attempting, inaugurating, or encouraging secession from the I. A. M., or advocating or encouraging or attempting to inaugurate any dual labor movement, or advocating or encouraging communism, fascism, nazism, or any other totalitarian philosophy, or by other actions giving support to these philosophies or "isms."</p> <p>Acquiring membership by false pretense, misrepresentation, or fraud.</p> <p>Accepting employment in any capacity in an establishment where a strike or lockout exists as recognized under this Constitution, without permission.</p> <p>Any other conduct unbecoming a member of the I. A. M.</p>	<p>conduct, or falsely or maliciously attacking the character, impugning the motives, or questioning the integrity of any member or officer.</p> <p>Refusal or failure to perform any duty or obligation imposed by this Constitution; the established policies of the I. A. M.; the valid decisions and directives of any officer or officers thereof; or, the valid decisions of the E. C. or the G. L. convention.</p> <p>Attempting, inaugurating, or encouraging secession from the I. A. M., or advocating or encouraging or attempting to inaugurate any dual labor movement, or advocating or encouraging communism, fascism, nazism, or any other totalitarian philosophy, or by other actions giving support to these philosophies or "isms" or to movements or organizations inimical to the I. A. M. or its established policies and laws.</p> <p>Acquiring membership by false pretense, misrepresentation, or fraud.</p> <p>Accepting employment in any capacity in an establishment where a strike or lockout exists as recognized under this Constitution, without permission.</p> <p>Actions constituting a violation of the provisions of this Constitution.</p> <p>Illegal voting or in any way preventing an honest election to fill elective offices, posts or positions in the G. L. or any L. L., D. L., council or conference.</p> <p>Any other conduct unbecoming a member of the I. A. M., provided, however, that any charge of such conduct shall specifically set forth the act or acts or omissions alleged to constitute such offense.</p>
<p style="text-align: center;">Trial Procedure Article K Suspensions</p> <p>Section 4. Whenever the I. P. suspends a L. L. or D. L., or officer, representative, charged with any of the acts set forth in Sections 1, 2 and 3 above, pending a final disposition of such charges, any such order of</p>	<p style="text-align: center;">Trial Procedure Article L</p> <p>Section 4. Amended to read as follows: Suspensions</p> <p>Section 4. Whenever the I. P. suspends a L. L. or D. L., or officer or representative</p>

D-1 Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 4.—Continued</p> <p>suspension shall be sent by registered mail, or telegram, to such L. L. or D. L., or officer, or representative, or member, together with a full statement of the charges upon which suspension is predicated. During the suspension of a L. L. and/or D. L., pending the disposition of charges, the L. L. and/or D. L. shall be under the supervision of the I. P. or his representative. During such period the L. L. and/or D. L. shall function only in those capacities that will best serve the interests of the members. Any such order suspending an officer or member shall operate only to suspend the right of such officer or member to attend meetings of any L. L., D. L., council or conference, hold any office, or otherwise participate in any of the activities of the I. A. M. All other membership rights of such officer, representative, or member, shall remain unaffected unless and until he has been tried and convicted in accordance with the procedures set forth herein.</p> <p style="text-align: center;">Trial of Local Lodge or District Lodge</p> <p>Section 5. A charge of misconduct against a L. L. or D. L. may be preferred by any officer, representative or member, in writing transmitted to the I. P. A trial of such a charge shall be had before a special committee designated by the I. P. for that purpose, or before the convention of the G. L. at the discretion of the I. P. These tribunals are vested with original trial jurisdiction to hear and decide such charges in the manner prescribed below:</p> <p>The L. L. or D. L. shall be notified in writing by registered mail of the charges on which it will be tried, and the time and place of trial which shall be held not less than 30 days after the mailing of such notice by the G. S. T. In the case of a trial before a special committee, the accused L. L. or D. L. shall be given full opportunity to present evidence and arguments in refutation of the preferred charges, to examine and cross-examine witnesses, and may be represented by an attorney, as provided in Section 10 of this Article.</p> <p>The special committee shall report in writing to the I. P. its verdict and its recommendation of the penalty to be imposed if the verdict be that of "guilty." The I. P. may affirm,</p>	<p>charged with any of the acts set forth in Sections 1, 2 and 3 above, pending a final disposition of such charges, any such order of suspension shall be sent by registered mail, or telegram, to such L. L. or D. L., or officer or representative, together with a full statement of the charges upon which suspension is predicated. During the suspension of a L. L. and/or D. L., pending the disposition of charges, the L. L. and/or D. L. shall be under the supervision of the I. P. or his representative. During such period the L. L. and/or D. L. shall function only in those capacities that will best serve the interests of the membership. Any such order suspending an officer or elected or appointed representative shall operate only to suspend the right of such person to occupy any office or position perform any of the functions thereof, but all other membership rights of such officer or representative shall remain unaffected unless and until he has been served with charges and tried and convicted in accordance with the procedures hereafter set forth in this Article.</p> <p>Section 5. Section heading amended to read: Trial of Local Lodge, District Lodge, Council or Conference.</p> <p>The following Amendments also made: Lines 2, 12, 18, and line 32, the language "L. L. or D. L." changed to read: "L. L., D. L., Council or Conference." Inserting, after the word "notified" on line 12, the words "by the G. S. T." Deleting, on line 16, the words "by the G. S. T." Inserting, after the word "Committee" on line 58, the following: "or rejects a Committee finding of 'not guilty' and then finds the defendant 'guilty'".</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 5.—Continued</p> <p>modify, or reverse in full or in part, the decision of the special committee, or impose any penalty or fine which he deems to be required.</p> <p>Any L. L. or D. L. shall have the right to demand that the trial be conducted in the locality where the offense is alleged to have been committed except that this provision shall not apply with respect to trials conducted by the G. L. convention as hereinafter provided.</p> <p>In the case of a trial before the convention of the G. L., the trial shall be referred to and conducted by the Appeals and Grievance Committee of the convention which shall accord the accused full opportunity to present evidence in refutation of the preferred charges, to examine and cross-examine witnesses, and the accused may be represented by an attorney, as provided in Section 10 of this Article; and such committee shall submit its report to the convention, which shall include its findings and verdict, together with its recommendation of the penalty to be imposed if the verdict be that of "guilty."</p> <p>The convention may amend or reject the verdict or findings of said committee in whole or in part, and find the accused either "guilty" or "not guilty." If the convention concurs with a "guilty" verdict of the Appeals and Grievance Committee, the recommendation of said committee as to the penalty to be imposed may be amended or rejected in whole or in part and/or another penalty substituted therefor by a majority vote of those delegates voting on the question. Such action of the convention shall be recognized and accepted as final and binding on all parties.</p> <p style="text-align: center;">Trial of Officers or Representatives</p> <p>Section 6. A charge of misconduct may be made against any officer or representative of a L. L. or D. L. by any member in writing transmitted to the I. P., with a copy to the proper officer of the body involved. The I. P. may determine that fairness to the accused and the best interests of the I. A. M. require a trial thereof before a special committee designated by the I. P. for that purpose or before the convention of the G. L. In the event the I. P. refers the charges to trial</p>	<p>Section 6. A charge of misconduct may be made against any officer or representative of a L. L., D. L., council or conference, by any member in writing to the proper officer of the body involved with a copy of such charges to the I. P. The I. P. may determine that fairness to the accused and the best interests of the I. A. M. require a trial thereof before a special committee designated by the I. P. for that purpose or before the convention of the G. L. In the event the I. P.</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 6.—Continued</p> <p>before a special committee or before the convention of the G. L., the matter shall be heard and decided by those tribunals in accordance with the procedure prescribed in Section 5 of this Article. Otherwise, the charges will be tried before the L. L. or D. L. of which the accused is an officer or representative in accordance with the trial procedure prescribed in Sections 8 through 13 of this Article.</p> <p style="text-align: center;">Trial of a Member</p> <p>Section 7. Charges preferred against a member for other than a violation of his or her duty or duties as an officer or representative of either a L. L. or D. L. shall be governed by the following procedures:</p> <p>It is the duty of any member who has information as to conduct of a member covered by Section 3 of this Article to immediately prefer charges in writing against such member by filing the same with the president of the L. L. of which the accused is a member. The president of the L. L. with whom the charges are filed shall supply a copy to the accused and forthwith proceed to bring the accused to trial under the provisions of Sections 8 through 13 of this Article, except that the I. P. may, when he deems such action necessary in order to provide a fair trial or to protect the best interests of the I. A. M., direct that the accused be tried either by a special committee designated for that purpose or by the G. L. convention. In the event the latter procedure is adopted, the trial of the charges shall be governed by the provisions of Section 5 of this Article.</p> <p>In the event the president or the president and other officers of the L. L. are involved in the charges filed, the next ranking officer shall preside, as herein set forth. In the application of this Section the order of ranking of officers shall be president and vice president. In the event a president and vice president are involved in the charges, or are absent, the R. S. shall call for nomination of a temporary chairman and the members present shall immediately proceed to select a temporary chairman by majority vote. The temporary chairman selected shall then proceed to carry out the requirements of this Section.</p>	<p>refers the charges to trial before a special committee or before the convention of the G. L., the matter shall be heard and decided by those tribunals in accordance with the procedure prescribed in Section 5 of this Article. Otherwise, the charges will be tried before the L. L., D. L., council or conference of which the accused is an officer or representative in accordance with the trial procedure prescribed in Sections 8 through 13 of this Article.</p> <p>Section 7. Same.</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 7.—Continued</p> <p>In the event that any L. L., or the members thereof, fail to proceed as prescribed herein, then any officer or representative, or member, may file written charges against such member or members with the I. P. Upon the receipt of such charges, the I. P. shall forward one copy thereof to the accused and one copy thereof to the president of the L. L. of which the accused is a member, together with an order commanding said L. L. to proceed to place the accused on trial under the provisions of this Article.</p> <p>If said L. L. fails or refuses for 15 days thereafter, to proceed as ordered by the I. P., then the I. P. shall notify the accused and the L. L. of which the accused is a member, of the time and place, when and where a special committee will meet for the purpose of hearing evidence and trying the accused upon charges theretofore preferred, provided, however, that the I. P. or the E. C. may, if they deem advisable, in lieu of a trial before a special committee, order the accused to be tried by the G. L. convention. In the event the latter procedure is adopted, the trial of the charges shall be governed by the provisions of Section 5 of this Article.</p> <p>Appointment of Trial Committee</p> <p>Section 8. Except as otherwise provided in this Article, whenever charges have been preferred against a member, the president of the L. L. shall immediately appoint a trial committee of not more than 5 members, one of whom shall act as chairman and one of whom shall act as secretary, to investigate the charges, take testimony and decide upon the guilt or innocence of the accused. The trial committee so appointed shall within one week thereafter, notify the member of the charges against him and the time and place, when and where, to appear for trial.</p>	<p>1961 Constitution</p> <p>Section 8. Replaced by the following:</p> <p>Section 8. Except as otherwise provided in this Article, whenever charges have been preferred against a member, the president of the L. L. shall promptly appoint a trial committee of not more than 5 members, one of whom shall act as chairman and one of whom shall act as secretary. The trial committee shall conduct an investigation of the charges and decide whether there is sufficient substance to warrant a trial hearing being held. If the trial committee decides a trial hearing is warranted, the committee shall, within one week of its appointment, notify the member of the charges against him and when and where to appear for trial. The time set for trial shall allow the accused a reasonable time (not less than 7 calendar days after notification) to prepare his defense.</p> <p>If the trial committee decides the charges should be dismissed on the basis of lack of supporting evidence, it will so recommend to</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
	<p>Section 8.—Continued</p> <p>the next regular meeting of the L. L. and the L. L. shall adopt or reject the trial committee's recommendation. If the L. L. adopts the recommendation, the charges shall stand dismissed subject to appeal of L. L. decisions as provided in Section 14 of this Article. If the L. L. rejects the committee's recommendation, the trial committee shall proceed to notify the charged member and hold a trial hearing.</p>
<p style="text-align: center;">Appearance</p> <p>Section 9. If a member fails to appear for trial when notified to do so, the trial shall proceed as though the member were in fact present.</p>	<p>Section 9. Same.</p>
<p style="text-align: center;">Evidence</p> <p>Section 10. Both the plaintiff and the defendant shall have the privilege of presenting evidence and being represented either in person or by attorney (the attorney being a member of the I. A. M.). The trial committee shall maintain a written record of the trial proceedings, including all testimony and documents introduced by either the plaintiff or the defendant.</p>	<p>Section 10. Same.</p>
<p style="text-align: center;">Trial Procedure</p> <p>Section 11.</p> <ol style="list-style-type: none"> 1. Call trial committee to order. 2. Examine due books. 3. Clear the trial chamber of all people except the trial committee, the trial reporter (who need not be a member of the I. A. M.), the plaintiff and his attorney, the defendant and his attorney, and a representative of the G. L., if in attendance. 4. The plaintiff and the defendant shall remain in the trial chamber until trial is concluded, but shall sit apart. 5. The chairman shall read the charges and ask the defendant if he is "guilty" or "not guilty." If the plea is "not guilty" the trial shall then proceed; if the plea is "guilty" the trial committee shall conduct such further proceedings as in its judgment are required. 6. The plaintiff or his attorney shall present his case first. 	<p>Section 11. Same, except in subsection 3, change "a representative" to read "representatives."</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 11.—Continued</p> <ol style="list-style-type: none"> 7. Witnesses shall be called into the trial chamber one at a time, and will leave the trial chamber upon completing their testimony, subject to recall by either the trial committee, the plaintiff, the defendant, or the representative of the G. L. 8. All persons giving testimony shall be required to affirm that the testimony that they give shall be the truth. 9. Defendant and his attorney shall have the right to cross-examine plaintiff's witnesses. 10. Defendant's witnesses shall then be called. 11. Plaintiff and his attorney shall have the right to cross-examine the defendant's witnesses. 12. Following the completion of cross-examination, the plaintiff and defendant shall be given the opportunity to make a statement or summation of their case, with the plaintiff having the first and last opportunity for remarks. 13. Before the trial committee shall begin their deliberations upon the testimony given, all persons except the trial committee, shall leave the trial chamber. 	
<p>Report of Trial Committee</p>	
<p>Section 12. The trial committee shall consider all of the evidence in the case and thereafter agree upon its verdict of "guilty" or "not guilty." If the verdict be that of "guilty," the trial committee shall then consider and agree upon its recommendation of punishment.</p>	<p>Section 12. Replaced by the following:</p>
<p>The trial committee shall report at the next regular meeting of the L. L. such report shall be in two parts as follows:</p>	<p>Report of Trial Committee</p>
<ol style="list-style-type: none"> 1. The report shall contain a synopsis of the evidence and testimony presented by both sides together with the findings and verdict of the trial committee. 	<p>Section 12. The trial committee shall consider all of the evidence in the case and thereafter agree upon its verdict of "guilty" or "not guilty." If the verdict be that of "guilty," the trial committee shall then consider and agree upon its recommendation of punishment.</p>
<p>After the trial committee has made the necessary explanation of its intent and meaning, the trial committee's verdict with respect to guilt or innocence of the defendant, shall be submitted without debate to a vote by secret ballot of the members of the L. L. in attendance.</p>	<p>Following completion of these deliberations and conclusions, the trial committee shall report at the next regular meeting of the L. L. The plaintiff and the defendant shall be promptly notified in writing by the R.S. of the decision of the L. L. with respect to the guilt or innocence of the defendant and with respect to the penalty imposed if the L. L. took action on the latter; the trial committee's report shall be in two parts as follows:</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 12.—Continued</p> <p>2. If the L. L. concurs with a "guilty" verdict of the trial committee, the recommendation of the committee as to the penalty to be imposed shall be submitted in a separate report to the L. L. and voted on by secret ballot of the members then in attendance.</p> <p style="text-align: center;">Voting on Report</p> <p>Section 13. The penalty recommended by the trial committee may be amended, rejected, or another punishment substituted therefor, by a majority vote of those voting on the question, except that it shall require a two-thirds vote of those voting to expel the defendant from membership.</p> <p>If the L. L. reverses a "not guilty" verdict of the trial committee, the punishment to be imposed shall be decided by the L. L. by a majority vote of those voting on the question, except that it shall require a two-thirds vote of those voting to expel the defendant from membership.</p> <p>Disqualification from holding office as a penalty for misconduct as a member or officer, shall be limited to 5 years.</p> <p style="text-align: center;">Article III Recall Provisions</p> <p>Section 21. A L. L. in good standing with the G. L. may propose the recall of any one or more of the G. L. officers, the committee on law and delegates to the A. F. L. -C. I. O. and the C. L. C. by filing with the G. S. T. a petition for the recall of such officer or officers, together with the endorsements thereof under the seal of at least 15% of the L. Ls. in good standing with the G. L., not more than 15 of which shall be located in any one state, province or territory. Every petition for a recall must contain a clear, concise</p>	<p>1. The report shall contain a synopsis of the evidence and testimony presented by both sides together with the findings and verdict of the trial committee.</p> <p>After the trial committee has made the necessary explanation of its intent and meaning, the trial committee's verdict with respect to guilt or innocence of the defendant shall be submitted without debate to a vote by secret ballot of the members of the L. L. in attendance.</p> <p>2. If the L. L. concurs with a "guilty" verdict of the trial committee, the recommendation of the committee as to the penalty to be imposed shall be submitted in a separate report to the L. L. and voted on by secret ballot of the members then in attendance.</p> <p>Section 13. Same.</p> <p>Section 21. Same. Renumbered Section 22.</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 21.—Continued</p> <p>statement of the specific charges against such officer or officers upon which the proceeding is based. All circulars issued by a L. L. for the purpose of securing the endorsements of other L. Ls. must be identical as to content and form, including the endorsement form attached thereto. All such circulars shall bear the date of issuance, be made returnable to the L. L. issuing same and deposited by such L. L. with the G. S. T. within 45 days after the date thereof.</p> <p>Upon receipt of the petition and endorsements for recall, the G. S. T. shall notify the officer or officers whose recall is sought and furnish him or them with a correct copy of the petition and the numbers of the L. Ls. appearing as endorsers thereof, and such officer or officers may within 10 days thereafter file a written statement of defense, containing not more than 500 words, with the G. S. T., who shall cause the same to be printed and mailed to all L. Ls. concurrently with the call for the endorsements for nominees next hereinafter provided for.</p> <p>On the 1st of the month next following, the G. S. T. shall issue a circular to all L. Ls. calling for endorsements of nominees for the office or offices held by the officer or officers whose recall is sought. The selection of candidates and the election, and the tabulating and counting of the votes, except as hereinafter modified, shall proceed in accordance with the election laws set forth, substituting the name of such months as may be necessary to hold an interim election in place of those months specified in other Sections of this Article.</p> <p>Unless the officer whose recall is sought lacks the necessary qualifications or files a written declination with the G. S. T., his name shall be printed upon the official ballot together with the name of the one other candidate who has received at least 25 endorsements and the greatest number of endorsements as candidate for nominee for that office. Should the officer whose recall is sought decline to be a candidate or lack the necessary qualifications, then the names of 2 members who have each received at least 25 endorsements and greatest and next greatest number of endorsements, respectively, as candidates for nominee for such office, shall be printed upon the official ballot as candidates for such office.</p>	

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 21.—Continued</p> <p>The candidate for any office who receives the greatest number of votes in any recall election shall be promptly notified of his election by the G. S. T. If the officer whose recall is sought, is not elected, his tenure of office shall terminate 15 days after the result of the election is announced and the newly elected officer shall thereupon assume the duties of the office.</p> <p style="text-align: center;">Appeals Article K</p> <p style="text-align: center;">Appeal From Decision of L. L. or D. L.</p> <p>Section 14. An appeal may be taken to the I. P. from the decision of a L. L. or D. L. by either the accused or the party preferring charges against the accused within 30 days after the verdict. Such appeal must be addressed to the I. P. in writing and set forth in specific detail the grounds on which it is based. The appeal may also include any argument in support thereof which the appellant desires to advance, but shall not include any new evidence. The I. P. shall transmit to the opposing party a copy of the appeal and such party shall have a period of 15 days to reply thereto. The I. P. shall obtain from the L. L. or D. L. a complete record of the trial before the L. L. or D. L. and shall make a decision based on such record, which shall be final and binding unless changed on further appeal as hereinafter provided. The decision of the I. P. shall contain his findings and conclusions and the penalty, if any, to be imposed. Upon such an appeal the I. P. shall have full authority to affirm or to modify or reverse, in whole or in part, the decision of the L. L. or D. L., or to remand the proceedings for further trial before the L. L. or D. L., or to impose any penalty or fine which he deems to be required, including expulsion. No party to the appeal shall have a right to appear in person before the I. P. However, the I. P., if he deems it necessary or desirable, in connection with his consideration of the appeal, may accord such a privilege. The I. P. shall furnish a copy of his decision to each party to the appeal by registered mail.</p> <p style="text-align: center;">Appeal from Decision of I. P.</p> <p>Section 15. An appeal may be taken from a decision of the I. P. to the E. C. by any interested party to the proceedings before either the I. P., the L. L. or D. L. Such appeal must be taken within 30 days from the date of the</p>	<p style="text-align: center;">Appeals Article L</p> <p>Section 14. Same.</p> <p>Section 15. Same.</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 15.—Continued</p> <p>I. P.'s. decision and shall be made in writing to the G.S.T. The appeal shall set forth in specific detail the grounds therefor and may include any written argument in support of these grounds. The G.S.T. shall also notify the opposing party of any appeal from a decision of the I.P. to the E.C. and shall furnish such party with a copy thereof. The opposing party shall have a period of 15 days in which to file any written argument in opposition to the appeal with the G.S.T. The G.S.T. shall transmit to the E.C. such appeal and any written arguments in opposition thereto, together with the record of the proceedings before the I.P., and the decision of the E.C. shall be made upon this record and the arguments submitted in connection therewith. No party to the appeal shall have a right to appear in person before the E.C. However, the E.C., if it deems necessary or desirable in connection with and consideration of the appeal, may accord such a privilege. The decision of the E.C. shall be by majority vote of those participating and shall be final unless changed upon further appeal as hereunder provided. No member of the E.C. involved in the case or who has participated in the matter at earlier stages shall be entitled to participate in the decision on appeal. The E.C. shall have full authority to affirm or to modify or reverse, in whole or in part, the decision of the I.P. or to remand the proceedings for further trial before the L.L. or D.L. or to impose any penalty or fine which it deems to be required. The G.S.T. shall furnish a copy of the decision of the E.C. to each party to the appeal by registered mail.</p>	
<p>Appeal from Decision of E. C.</p>	<p>Section 16. Line 6, change "XXIII" to "XX." Delete last sentence, and add the following paragraph at end:</p>
<p>Section 16. An appeal may be made from a decision of the E.C. by any party to the proceedings before the E.C. to the G.L. convention, or to the membership at large by submission thereof to the referendum as provided in Article XXIII. Such appeal shall be made in writing to the G.S.T. within 90 days from the date of the E.C.'s. decision and shall set forth in specific detail the grounds therefor. The appeal may include a written argument in support of such grounds. The G.S.T. shall notify the E.C. and the opposing party of such appeal and furnish them with a copy thereof. Such party may, within 15 days file with the G.S.T. a written argument in opposition to the appeal. The appeal shall be referred to the Appeals and Grievance</p>	<p>No officer, member, representative, L.L., D.L., or other subordinate body of the I.A.M. shall resort to any court of law or equity or other civil authority for the purpose of securing an opinion or decision in connection with any alleged grievance or wrong arising within the I.A.M. or any of its subordinate bodies until such party shall have first exhausted all remedies by appeal or otherwise provided in this Constitution not inconsistent with applicable law for the settlement and disposition of such alleged rights, grievances or wrongs. The I.P., E.C., and G.L. convention are</p>

D-1. Comparison of Discipline Provisions in 1958 and 1961 Constitutions
of the International Association of Machinists—Continued

1958 Constitution	1961 Constitution
<p>Section 16.—Continued</p> <p>Committee of the convention, and the G. S. T. shall transmit to such committee the record of the proceedings before the lower tribunals of the I. A. M. as well as the arguments of the appellant and of the opposition party. The Appeals and Grievance Committee shall, upon timely request, hear both parties to the appeal in person. However, no party to the appeal shall have a right to appear in person before the convention. The Appeals and Grievance Committee shall make a written recommendation to the convention based upon the record before it, which shall contain its findings, conclusions, and recommendations as to penalty to be imposed, if any. The convention may amend or reject in whole or in part the findings and recommendations of the Appeals and Grievance Committee and find the accused either "guilty" or "not guilty." The convention may also accept or reject in whole or in part any recommendation of the Appeals and Grievance Committee with respect to a penalty to be imposed, and may itself provide a substitute penalty by a majority of delegates voting on the question. Such action of the convention shall be recognized and accepted as final and binding on all parties.</p> <p>Before any appeal can be taken from an E. C. decision, the decision and all orders of the E. C. in relation thereto must be complied with by all parties concerned therein; provided, however, that in the event the E. C. concludes that compliance pending appeal would constitute a substantial bar to the exercise of the right thereof, compliance therewith may be waived or modified by the E. C. with respect thereto. In no case shall any L.L., D.L., officer, representative, or member thereof, appeal to the civil courts for redress until after having exhausted all rights of appeal under this Constitution.</p> <p>Rights of Member During Appeal</p> <p>Section 17. While any member or L. L. is exercising the right of appeal the financial standing of such member or L. L. shall not be impaired by refusal to accept dues or per capita tax until after the E. C. has passed upon the appeal.</p> <p>Notification to Local Lodge and District Lodge</p> <p>Section 18. Whenever appeals are taken to the I. P., E. C., a convention of the G. L. or general referendum, the L. L. or D. L. involved shall be notified immediately.</p>	<p>hereby empowered to refuse or defer consideration, or to refuse or defer or withhold decisions, in any matter pending in any court of law or before any other civil authority as circumstances in their judgment may warrant and justify.</p> <p>Section 17. Same.</p> <p>Section 18. Same.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters

1957 Constitution	1961 Constitution
<p style="text-align: center;"><u>Grounds</u></p> <p style="text-align: center;">Article IX</p> <p style="text-align: center;">Trial of Member Assaulting General Officer or Organizer</p> <p>Section 4. Any member or number of members of a Local Union assaulting or injuring a general officer, or organizer, shall be tried and if found guilty punished by the General Executive Board on such charge in the same manner as hereinafter provided for other trials and punishments by the General Executive Board. If he is found not guilty, his expenses to the place of the General Executive Board meeting shall be paid by the General Office. If he is found guilty he shall be disciplined as the judgment of the General Executive Board dictates and his expenses shall not be paid. If he desires not to attend his trial, he may submit his answer or defense in writing to the Board.</p>	<p style="text-align: center;"><u>Grounds</u></p> <p style="text-align: center;">Article XIX</p> <p style="text-align: center;">Grounds for Charges Against Members, Local Unions, Joint Councils and Officers</p> <p>Section 6. The basis for charges against members, officers, elected business agents, Local Unions, Joint Councils or other subordinate bodies, for which he or it shall stand trial, shall consist of but not be limited to the following:</p> <ol style="list-style-type: none"> (1) Violation of any specific provision of the Constitution or failure to perform any of the duties specified thereunder. (2) Violation of the oath of loyalty to the Local Union and the International Union. (3) Embezzlement. (4) Secession, or fostering the same. (5) Abuse of fellow members and officers by written or oral communication. (6) Abuse of fellow members or officers in the meeting hall. (7) Filing charges in bad faith or out of malice.
<p style="text-align: center;">Article XVIII</p> <p style="text-align: center;">Grounds for Charges Against Members, Local Unions, Joint Councils and Officers</p> <p>Section 6. The basis for charges against members, officers, Local Unions, Joint Councils or other subordinate bodies, for which he or it shall stand trial, shall consist of but not be limited to the following:</p> <ol style="list-style-type: none"> (1) Violation of any specific provision of the Constitution or failure to perform any of the duties specified thereunder. (2) Violation of the oath of loyalty to the Local Union and the International Union. (3) Violation of the oath of office. (4) Gross disloyalty, or conduct unbecoming a member. (5) If an officer, gross inefficiency which shall hinder and impair the interests of the Local Union or of the International Union. (6) Misappropriation. (7) Secession, or fostering the same. 	<p style="text-align: center;">Article XIX</p> <p style="text-align: center;">Grounds for Charges Against Members, Local Unions, Joint Councils and Officers</p> <p>Section 6. The basis for charges against members, officers, elected business agents, Local Unions, Joint Councils or other subordinate bodies, for which he or it shall stand trial, shall consist of but not be limited to the following:</p> <ol style="list-style-type: none"> (1) Violation of any specific provision of the Constitution or failure to perform any of the duties specified thereunder. (2) Violation of the oath of loyalty to the Local Union and the International Union. (3) Embezzlement. (4) Secession, or fostering the same. (5) Abuse of fellow members and officers by written or oral communication. (6) Abuse of fellow members or officers in the meeting hall. (7) Filing charges in bad faith or out of malice.

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 6.—Continued</p> <p>(8) Abuse of fellow members and officers by written or oral communication.</p> <p>(9) Abuse of fellow members or officers in the meeting hall.</p> <p>(10) Activities which tend to bring the Local Union or the International Union into disrepute.</p> <p>(11) Disobedience to the regulations, rules, mandates and decrees of the Local Union or of the officers of the International Union.</p> <p>(12) Such other acts and conduct which shall be considered inconsistent with the duties, obligations and fealty to a member of a trade union, and for violation of sound trade union principles.</p> <p style="text-align: center;">Specific Offenses</p> <p>Section 7. Any member who (1) knowingly goes to work or remains in the employment of any person, firm or corporation, whose men are on strike or locked out unless he has permission of the International Union, the Joint Council or his Local Union, may be tried by the Executive Board of his Local Union, or (2) knowingly gives or attempts to give directly or indirectly, any information to any employer on an unfair list or whose men are on strike or locked out, or whose men are trying to secure an agreement or an improvement in their working conditions or whose men are trying to prevent an increase in hours of labor or a decrease in wages, for the purpose of assisting such employer, or for any gain or promise of gain, or (3) knowingly goes to work or remains in the employment of any person, firm or corporation on an unfair list of the International Union, without permission from the International Union, the Joint Council or his Local Union, may be tried in the manner provided for the trial of other offenses.</p> <p style="text-align: center;">Refusal to Return Books</p> <p>Section 8. Any member who (1) wrongfully takes or retains any money, books, papers or any other property belonging to the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, any Joint Council, Local Union, or other subordinate body; or (2) who mutilates, erases, destroys or in any way injures any</p>	<p>Section 7. Same.</p> <p>Section 8. Same.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 8.—Continued</p> <p>books, bills, receipts, vouchers, or other property of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, any Joint Council, Local Union or other subordinate body, may be tried in the manner provided for the trial of other offenses.</p> <p style="text-align: center;">Charges Not Preferred in Good Faith</p> <p>Section 11. If charges are preferred and such charges are not sustained and the trial body or appellate body is convinced that the same were not brought in good faith or were actuated by malice, the trial body or the appellate body may impose such penalty by the way of punishment as in its judgment is deemed proper under the circumstances.</p> <p style="text-align: center;">Revocation of Membership on Being Found Guilty of Crime</p> <p>Section 13. (a). When a member is convicted of the commission of a crime or serious wrongdoing, or pleads guilty to the commission of a crime or serious wrongdoing, against the Local Union or against the community, and which crime or act of serious wrongdoing tends to bring dishonor upon the Local Union or the International Union, it shall be the duty of the Local Union to proceed to revoke the membership of such member. Likewise, whenever a member of a Local Union has engaged in what is commonly termed racketeering, and he is found guilty thereof, thereby bringing dishonor upon the Local Union or upon the International Union, it shall be the duty of the Local Union to proceed in the manner provided in Article XVIII, Section 1, to revoke the membership of such member.</p> <p>(b). Under the circumstances referred to in the foregoing paragraph, the Secretary-Treasurer of the Local Union shall refuse to accept dues from any person so removed from membership. It shall be mandatory upon the Local Union Executive Board to order the name of such member stricken from the rolls and to notify all Local Unions in the district, the Joint Council and the International Union, of its action and the cause therefor.</p>	<p>Section 11. Deleted.</p> <p>Section 13. (a). Deleted.</p> <p>Section 13. (b). Deleted.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 13.—Continued</p> <p>(c). In the event a Local Union fails to carry out the foregoing provision, then the General President, when the matter is brought to his attention, shall have the power, in his discretion, to proceed to revoke or order the revocation of the membership of such member.</p> <p>(d). Any individual whose membership is hereafter revoked in accordance with the provisions of this section may subsequently be reinstated to membership; such reinstatement shall be subject to the approval of the Local Union of which he was a member, the involved Joint Council, and the General Executive Board.</p> <p style="text-align: center;"><u>Trial Procedure</u></p> <p style="text-align: center;">Article XVIII</p> <p style="text-align: center;">Trials and Appeals</p> <p style="text-align: center;">Trials of local union officers and members—procedure</p> <p>Section 1. (a). A member or officer of a Local Union charged by any other member of the Local Union with any offense constituting a violation of this Constitution, shall, unless otherwise provided in this Constitution, be tried by the Local Union Executive Board. If the member charged or preferring the charges is a member of such Board then the president of the Local Union shall appoint a disinterested member as a substitute. If the president of the Local Union is charged or is preferring the charges the Local Union secretary-treasurer shall appoint the substitute.</p> <p>(b). Whenever the charges are preferred against any member or officer of a Local Union, the charges shall be filed in writing in duplicate with the secretary of the Local Union, Joint Council or General Executive Board which is to try the case. No member or officer of a Local Union shall be tried unless he or she shall be served by the secretary, personally or by registered or certified mail, with a written copy of such charges specifying the nature of the offense of which he or she is accused. Thereupon, the accused shall be required to stand trial at the time and place designated, which shall not be less than ten (10) days from the date the charges are served upon the accused. The accused may appear in person, and with witnesses, to answer the charges preferred against him or her. He may select only a member of his Local Union to represent him in the presentation of his defense.</p>	<p>Section 13. (c). Deleted.</p> <p>Section 14. (d). Deleted.</p> <p style="text-align: center;"><u>Trial Procedure</u></p> <p>Section 1. (a). Same.</p> <p>Section 1. (b). The following words added at end: and the charging party may select only a member of his local union to assist him in the presentation of the evidence in support of the charges. The local union executive board shall have the authority to determine the manner of reporting the proceedings and shall have the authority to exclude any method not authorized by it.</p> <p>The following new section added: (c). A member of one local union shall have a right to file charges against a member of another local union. Such charges must be filed with the executive board of the local union of which the accused is a member. The executive board may, at its discretion, decline to process the charges. However, a decision of the executive board not to process the charges may be appealed in accordance with the provisions of Section 2.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 1.—Continued</p> <p>(c). If the charges, or any portion thereof, are sustained, then the trial body shall render judgment and impose disciplinary action as provided for in this Constitution. If the charges are not sustained, the same shall be dismissed and the accused restored to full rights of membership or office in the Local Union.</p> <p>(d). Upon filing of such charges, and if same are of such magnitude and seriousness as to jeopardize the interests of the Local Union or International Union, then, and in that event, the General President, if the matter is brought to his attention, may, if he deems it advisable, immediately suspend such member or officer from membership or office in the Local Union until a decision has been rendered in the case.</p> <p style="text-align: center;">Trials and appeals of local unions, other subordinate bodies, and elective international union officers</p> <p>Section 3. (a). Whenever charges are preferred against a Local Union or against a Joint Council, or other subordinate body, such charges shall be filed in writing in duplicate with the secretary of the trial body, and shall be served personally or by registered or certified mail on the Secretary-Treasurer of the Local Union or the Joint Council or other subordinate body so charged. If the charges are against the Local Union the trial shall be by the Executive Board of the Joint Council, provided that if a Local Union is not affiliated with a Joint Council due to the fact that no Joint Council exists with which such Local Union can affiliate, the trial shall be by the General Executive Board. If the charges are against a Joint Council or other subordinate body the trial shall be before the General Executive Board. The provisions of this section shall also be applicable when the Executive Board of the subordinate body is charged or is the charging party.</p> <p>(b). A Local Union shall be accorded thirty (30) days' time in which to appear for trial and submit its defense. In the case of a Joint Council or other subordinate body the time of trial shall be fixed by the General Executive Board.</p>	<p>Section 1. (c). Renumbered Section 1 (d), and the following words deleted: (and the accused restored to full rights of membership or office in the local union.)</p> <p>Section 1. (d). Renumbered 1 (e).</p> <p>Section 3. (a). Same.</p> <p>Section 3. (b). Same.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 3.—Continued</p> <p>(d). Trial of elective International Union Officers shall be before the General Executive Board at such time and place as fixed by the General Executive Board. The officer charged shall be found guilty only on a majority vote of the entire General Executive Board. Appeals by such general officers from decisions of the General Executive Board shall be to the convention.</p> <p>(e). Emergency powers provided for in Section 9, this Article, shall apply with the same force and effect to Local Unions and Joint Councils and other subordinate bodies.</p> <p style="text-align: center;">Refusal of local union to try member</p> <p>Section 12. Any Local Union refusing to try its members when charges have been preferred by another Local Union, for any cause whatsoever, the Local Union preferring the charges may then bring the charge before the Executive Board of the Joint Council, where one exists for trial and decision in the same manner as provided for the conduct of other trials before the Local Union Executive Board. If no Joint Council exists, then the matter shall come within the jurisdiction of the General Executive Board.</p> <p style="text-align: center;">Original jurisdiction of general executive board to try offenses against In- ternational union</p> <p>Section 4. (a). Notwithstanding any other provision of this Constitution, the General Executive Board shall have jurisdiction to try individual members, officers, Local Unions, Joint Councils or other subordinate bodies for all offenses committed against the officers of the International Organization or the International Organization. In the event charges have been filed or hearings are pending before a subordinate body in respect to any offense over which the General Executive Board has assumed jurisdiction under this section, the jurisdiction of such subordinate body shall forthwith terminate and the subordinate body shall, upon request of the General Executive Board, transfer all of its records and papers pertaining to the case to the General Executive Board.</p>	<p>Section 3. (d). Vote requirement changed from "<u>majority</u>" to "<u>two-thirds</u>."</p> <p>Section 3. (e). Same.</p> <p>Section 12. Same.</p> <p>Section 4. (a). Same.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
Section 4.—Continued	
<p>(b). Charges shall be filed in duplicate in writing with the General Secretary-Treasurer or the General President. A copy of the charges shall be served personally or by registered or certified mail upon the accused, together with notice of the time and place of trial.</p>	Section 4. (b). Same.
<p>(c). If the accused are unable to be present at the meeting of the General Executive Board, they may present their case in writing.</p>	Section 4. (c). Same.
<p>Trials Before Panels of Executive Boards</p>	
<p>Section 5. In any case where a trial before the General Executive Board of the International Union or the Executive Board of any subordinate body thereof is required under the provisions of this Constitution, such Board may have such trial conducted before a panel appointed by the General President or the president of the subordinate body as the case may be, consisting of one (1) or more disinterested members thereof. This panel shall act on behalf of such Board in the holding of hearings and the taking of evidence and, following the conclusion of the hearing before it, shall make a full report in writing, including findings and such recommendations for disciplinary action, if any, the Board itself is to take. The ultimate determination of the case, however, shall be made by the Board itself on the basis of the record made before the panel.</p>	<p>Section 5. First sentence now reads: "In any case where a trial <u>or hearing on appeal</u> before the . . ." Otherwise, same.</p>
<p>Emergency Power in General President to Conduct a Trial When Welfare of Organization Demands</p>	
<p>Section 10. (a). Whenever charges involving a member or members, officer or officers, Local Union, Joint Council or other subordinate body create, involve or relate to a situation imminently dangerous to the welfare of a Local Union, Joint Council, other subordinate body or the International Union the General President is empowered, in his discretion, in all cases except where the General Executive Board has assumed jurisdiction under Section 4 of this article, to assume original jurisdiction in such matter, regardless of the fact that charges have been filed with a subordinate body and are pending. When the General President has assumed such original jurisdiction</p>	Section 10. (a). Same.

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 10.—Continued</p> <p>under this section, the jurisdiction of the subordinate body shall cease. Under such circumstances, the General President shall hold a hearing upon giving not less than forty-eight (48) hours notice to the party or parties charged to appear before him at a place and time designated by him. He shall then proceed to hear and try the matter and render judgment in accordance with the facts and circumstances presented to him. When the General President has so acted, an appeal shall lie from his decision to the General Executive Board, and from the General Executive Board to the convention in the same manner and to the same extent only as is provided for appeals in other cases. Pending appeal from the General President's action, his decision shall stand and be enforced.</p> <p>(b). When the General President deems it necessary to exercise the foregoing emergency power, he may deputize a representative or representatives to act for him in such matter. Such representative shall have the same powers as the General President as herein provided; however, when a trial shall be conducted by a representative or representatives of the General President, such representative or representatives shall make his or their recommendations to the General President, orally or in writing, and the decision in the case shall be made by the General President himself.</p>	<p>Section 10. (b). Same.</p>
<p style="text-align: center;"><u>Penalties</u></p> <p style="text-align: center;">Article XVIII</p> <p style="text-align: center;">Decisions and Penalties</p> <p>Section 9. (a). Decisions and penalties imposed upon individual members, officers, Local Unions, Joint Councils or other subordinate bodies found guilty of charges may consist of reprimands, fines, suspensions, expulsions, revocations, denial to hold any office permanently or for a fixed period or commands to do or perform, or refrain from doing or performing, specified acts. If the penalty is by way of fine then the same must be paid, pending an appeal if one is taken unless the General President waives the same within ten (10) days from receipt of request therefor. A Local Union ordered to reinstate a member or perform an act other than the payment of</p>	<p style="text-align: center;"><u>Penalties</u></p> <p>Section 9. (a). Same.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 9.—Continued</p> <p>a fine must comply therewith as a condition precedent to taking an appeal unless the General President or the General Executive Board suspends such order pending the appeal. If the fine is against a member or officer of a Local Union, assessed by the Local Union, it shall be paid into the treasury of the Local Union. If a fine is assessed against a Local Union by a Joint Council the payment shall be to the treasury of the Joint Council.</p> <p>(b). If the fine is assessed where the General Executive Board has assumed original jurisdiction, it shall be paid to the Treasury of the International Union.</p> <p>(c). When such penalty consists only of a fine and an appeal is taken, such fine shall be deposited as above provided; thereupon such member, officer or Local Union shall be permitted to continue in the Local Union with full rights and privileges in accordance with the laws of the International Union. If on appeal the decision is reversed and the fine disallowed, then the same shall be returned to the party depositing the same. Whenever a decision is handed down by any trial or appellate body and an appeal is taken, such decision shall stand and remain in full force and effect until reversed by a higher body.</p> <p>(d). In the event of non-compliance with the decision handed down by a trial or appellate body, the member, officer, Local Union, or Joint Council shall stand suspended from all privileges of the International Union until the provisions of the decision have been complied with. If, however, the decision carries with it an order of expulsion, then such order of expulsion shall immediately take effect.</p> <p>(e). Any member or Local Union that is tried by the General Executive Board cannot be tried for the same offense by a Local Union or Joint Council.</p> <p>(f). The General Executive Board may send a case back to the Joint Council, the Local Union, or other hearing body or officer for further hearing, production of additional testimony, or for further consideration with or without such further hearing.</p>	<p>Section 9. (b). Same.</p> <p>Section 9. (c). Following words added at end: "unless the General President has stayed the effectiveness of the decision pending appeal."</p> <p>Section 9. (d). Following words added at end: "unless the General President has stayed the effectiveness of the decision pending appeal."</p> <p>Section 9. (e). Same.</p> <p>Section 9. (f). Same.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p style="text-align: center;"><u>Appeals</u></p> <p style="text-align: center;">Appeals of Local Union Officers and Members</p> <p>Section 2. (a). In the event disciplinary action is taken against the accused, he or she may take an appeal from the decision of the Local Union Executive Board to the Executive Board of the Joint Council, if one exists, otherwise the appeal shall be taken to the General Executive Board. Appeals from decisions of the Executive Board of Joint Councils may be taken to the General Executive Board. In all matters involving officers of subordinate bodies and individual members there shall be no further appeal from the decision of the General Executive Board. Where elective officers of the International Union are involved, and as to all other matters not specifically excluded herein, appeals from decisions of the General Executive Board may be taken to the next convention. All manner of appeals shall be taken within fifteen (15) days from the date the decision is placed in the mail or otherwise transmitted to the interested parties.</p> <p>(b). The appellant shall mail a written notice of such appeal to the secretary of the body to which the appeal is directed. No specific form or formality shall be required, except that such notice shall clearly state an appeal is being taken from the particular decision rendered in the particular case. Pending any appeal, the decision appealed from shall remain in full force and effect. Appeals shall be heard either on the record made before the trial tribunal or by a re-trial, in the discretion of the body hearing the appeal. Decisions on appeals shall be rendered as promptly as possible after the appeal has been heard. The date when an appeal will be considered by the appellate body may be fixed by it, but it shall proceed without unnecessary delay. Notice of the date when the appeal will be heard shall be served personally or by registered or certified mail on the parties interested in the particular case, and such parties may, in the discretion of the appellate body, be accorded the right to appear before the appellate body and present argument on the case.</p>	<p style="text-align: center;"><u>Appeals</u></p> <p>Section 2. (a). Same.</p> <p>Section 2. (b). Same.</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of
the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>Section 2.—Continued</p> <p>(c). If a member of the Executive Board of the Joint Council or of the General Executive Board is interested in the case as a party thereto, then the President of the Joint Council or the General President of the International Union, as the case may be, shall appoint a substitute.</p> <p>(d). Failure of any interested party in any case to appear before any trial or appellate body at the time and place designated in the notice shall constitute a waiver of appearance and the trial shall proceed or the appeal heard regardless of the absence of such party.</p> <p>(e). Any party to a case, regardless of whether such party is the accused or not, being aggrieved of a decision rendered in the case shall be entitled to the same rights of appeal as are hereinbefore provided for accused.</p> <p>Section 3. (c). In the matter of appeals from decisions affecting Local Unions not including decisions involving officers or individuals, the same shall be taken to the General Executive Board, and from it to the convention. In the matter of appeals from decisions affecting Joint Councils, or other subordinate bodies, not including decisions involving officers or members thereof, the same shall be taken to the convention. In all other respects procedure on appeals shall be the same as provided for in Section 2, this Article.</p>	<p>Section 2. (c). Same.</p> <p>Section 2. (d). Same.</p> <p>Section 2. (e). Same.</p> <p>Section 3. (c). Appeals from decisions on charges against Local Unions or Local Union Executive Boards shall be taken to the General Executive Board and from it to the Convention. Appeals from decisions on charges against Joint Councils or other subordinate bodies shall be taken to the Convention by only the Joint Council or other subordinate body involved. In all other respects the procedure on appeals shall be the same as provided in Section 2.</p>
<p style="text-align: center;"><u>Other</u></p> <p style="text-align: center;">Exhaustion of Remedies</p>	<p style="text-align: center;"><u>Other</u></p>
<p>Section 14. (a). Every member, officer, Local Union, Joint Council or other subordinate body against whom charges have been preferred and disciplinary action taken as result thereof, or against whom adverse rulings or decisions have been rendered or who claims to be aggrieved, shall be obliged to exhaust all remedies provided for in this Constitution and by the International Union before resorting to any other court or tribunal.</p>	<p>Sections 14. (a, b, and c). Underscored words in sections 12(a) and 12(b) added. Sections renumbered. Otherwise same. Section (c) added. Section 15 same; renumbered.</p> <p>Section 12(a). Every member, officer, <u>elected Business Agent</u>, Local Union, Joint Council or other subordinate body against whom charges have been preferred and disciplinary action taken as a result thereof, or</p>

D-2. Comparison of Discipline Provisions in 1957 and 1961 Constitutions of the International Brotherhood of Teamsters—Continued

1957 Constitution	1961 Constitution
<p>(b). Where a member, officer, Local Union, Joint Council, or other subordinate body, before or following exhaustion of all remedies provided for within the International Union, resorts to a court of law and loses his or its cause therein, all costs and expenses incurred by the International Union shall be assessed against such individual, Local Union, Joint Council, or other subordinate body, in the nature of a fine, subject to all penalties applicable where fines remain unpaid.</p> <p>Where such court action is by an individual or by a Local Union, Joint Council, or other subordinate body against a Local Union, Joint Council or other subordinate body, the foregoing provision in respect to the payment of costs and expenses shall be applicable in favor of the Local Union, Joint Council or other subordinate body proceeded against in court.</p> <p>Section 15. All decisions following trials or hearings shall be made and rendered within sixty (60) days of the date of the hearing of trial commenced, unless otherwise ordered by the General Executive Board.</p>	<p>against whom adverse rulings or decisions have been rendered or who claims to be aggrieved, shall be obliged to exhaust all remedies provided for this Constitution and by the International Union before resorting to any court, tribunal <u>or agency against the International Union, any subordinate body or any officer or employee thereof.</u></p> <p>(b). Where a member, officer, <u>elected Business Agent</u>, Local Union, Joint Council or other subordinate body, before or following exhaustion of all remedies provided for within the International Union, resorts to a court of law and loses his or its cause therein, all costs and expenses incurred by the International Union shall be assessed against such individual; Local Union, Joint Council, or other subordinate body, in the nature of a fine, subject to all penalties applicable where fines remain unpaid.</p> <p>Where such court action is by an individual or by a Local Union, Joint Council, or other subordinate body against a Local Union, Joint Council or other subordinate body, the foregoing provision in respect to the payment of costs and expenses shall be applicable in favor of the Local Union, Joint Council or other subordinate body proceeded against in court.</p> <p>(c). <u>The appeals procedure provided herein is also available to and must be followed by any member who is aggrieved by any decision, ruling, opinion or action of the Local Union, membership, officers or Executive Board, excluding collective bargaining matters.</u></p>