

CHAPTER VII
THE PAY BOARD

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It is, of course, quite normal and very expected for a speaker to express his pleasure at the honor of being asked to speak before the assemblage. And while I most sincerely express that pleasure, I must explain why.

Twelve years ago—12 very short years ago—a gentleman by the name of Morris Myers, now a member of this Academy, took his new fledgling labor attorney to Santa Monica for the 1960 Annual Meeting of the National Academy of Arbitrators for the purpose of surveying the wonders of the elite of American arbitrationdom at work and play. The young man did, indeed, survey the gathering with appropriate deference and awe. And he learned many valued lessons: for example, how one company “steels” a reception for Academy members from an allied company (same industry) by setting up its own reception line at the back door and having the invitees cleverly directed to the rear entrance. He also learned how to play poker—St. Louis style. This involved (1) never letting the gentleman from BNA run one, since he was usually working on an inside straight; (2) insuring plush accommodations and refreshments for the evening by letting Fred host the game; and (3) staying around late enough to get fresh money from Indianapolis—after Carroll went to bed. And, of course, a most valued lesson was learned by observing how deftly and charitably the clergy handles a hotel management who has overbooked the establishment and is casting members and guests of the Academy into the street.

This was my first exposure to the National Academy of Arbitrators and an introduction to one of the most—if not *the* most—valued and well-attended labor-management gatherings in the nation today. (And this is all the more amazing since, as I have understood it these many years, the annual Academy meeting is not intended to be a labor-management affairs meeting at all.) I

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should add that the Academy meetings have been not only an annual professional high spot in my life, but a social one as well. I always look forward to renewing old and valued friendships at the Academy meetings. So, for these and other reasons, it is indeed a *very* great pleasure to be with you today as—of all things—a speaker.

Since my professional education and experience in the labor-management field has come substantially from instruction and association with members of the Academy, past and present, you can appreciate that I feel much like the new graduate who has returned to lecture the faculty. Therefore, I'm going to take another page from that book of valuable lessons learned in 1960, this one being from Leo's book on gamesmanship: Don't play somebody else's game, in his territory, and especially with his cards. So I'm going to skip the arbitration subject and return you to the nostalgia of yesteryear—War Labor Board, Wage Stabilization Board, or, as it is called today, the Pay Board.

There probably isn't one member of the Academy who can't identify with my role at the Pay Board. Quite likely, the great majority of you served in the same or a related position in World War II and/or Korea. (As a matter of fact, didn't Art Ross refer to these gatherings as WLB alumni meetings?) So even in this area of endeavor, I'm still carrying coal to Newcastle, but at least I can claim the sweat of the labor that covers the coal—or maybe its blood? And to the guests who have never endured a wage stabilization program—from the inside, that is—perhaps I can contribute to your understanding of how the Board arrived at some of those pearls of clarity—the regulations and case decisions.

First, I should start with Genesis (as my good friend and administrative director, Millard Cass, says) and give you a quick review of all that has gone before. The "whats"—that is, what do we do now that we're here—of a wage stabilization program aren't difficult to determine; it's the "hows" that cause the problem.

The "whats," or the basic staples of a wage and salary stabilization program, are: (1) a basic wage and salary standard; (2) criteria for exceptions, including tandem, catch-up, essential employees, merit pay, and special "additional" treatment areas; (3) an organization and procedure for case handling and for informa-

tion dissemination; (4) compliance and enforcement program; and (5) special-handling matters, including retroactive pay, deferred increases, federal wage determinations, incentive programs, and fringe benefits.

Without going into the well-publicized agony and wrenching with which the 15-member tripartite Board accomplished *all* of these tasks, it should be noted that the *full job* was completed by the tripartite Board—before the labor and business departure. Further, it was accomplished in (perhaps) a traditional and not-unexpected fashion, the three sectors interacting inefficiently, bitterly, and acrimoniously at first, and then responsibly, gentlemanly, and effectively at the end. As a matter of fact, with but one or two exceptions, the work of the tripartite Pay Board was conducted harmoniously and productively for over two months prior to its breakup. And it was during this time that the Pay Board worked most effectively in concluding its work on basic policies and criteria.

As you all surely know, the process of reaching an acceptable policy resolution—one that eventually becomes the retroactive pay, deferred increase, or whatever regulation—is one of negotiation: a three-cornered negotiation, and by far the biggest, toughest game in town—and there are some pretty big games in our town. Of course, sometimes the *cases* decided by the Board were also products of tripartite negotiation. But it was healthy, effective, and equitable. In the last analysis, all parties were satisfied if substantial equity for all was the final product—notwithstanding the media picture of those voting in the minority on a given matter as one of violent displeasure. Consider, for the moment, the voting record of the Pay Board for support of the proposition that the interests of the labor sector, for example, *did* receive consideration and substantial support.

The major votes of the Board, up through the West Coast longshoremens, numbered 54. Of these votes, 28 (over half) were unanimous. Labor voted with the majority 36 times and with the minority 13 times (that's over .700). Labor's voting record in the major cases was five out of eight; that is, they voted with the majority five times, with the minority three times. And even in those decisions in which labor voted with the minority or abstained, their analytical contributions substantially affected—to their best interest—the final results.

Turning now to the regulations: The dedicated pursuit by the Pay Board and our staff to obtain total and exhaustive input from all sectors substantially contributed not only to delays in reaching a final draft, but also to the complexity of the regulations as well. The regulation drafting went something like this. General Counsel drafted them; then they went, serially, to the labor, business, and public sectors for review and approval, and then on to the Cost of Living Council, the Justice Department, and the Internal Revenue Service for further review and approval. It is at this time, also, that the unusual case or the loophole-closing situation is accommodated in the regulation. This effort results in the appendages, caveats, "provideds," "howevers," etc., that render some of our offerings almost unintelligible. This was the price we paid for assuring all sectors a fair and complete opportunity to have their views considered in the final regulation. Although there is a case to be made for expediency and simplicity as representative of *real* fairness and justice—at a price of a certain amount of individual injustice—the Board consciously did not adopt that approach.

From this reflection on the operations of the tripartite, 15-member Board, I am sure you will understand my rejection of any allegation that the four labor members' decision to resign from the Pay Board was Pay Board-related. It was not, and no one who even casually knows the facts can seriously assert that it was—least of all the working members of the Board.

As of March 24, the end of the week in which the four labor members resigned and the Pay Board was reconstituted as a seven-man public Pay Board, an accounting of the Board's stewardship read something like this: (1) all basic policies decided and "in place"; (2) the case-handling system established and operating well, although a case backlog still existed; (3) the IRS—the field people supporting both the Pay Board and the Price Commission—organized and trained (in Pay Board matters, anyway); (4) the figures—975 cases, 4.429 million employees, 4.77 percent weighted average increase.

So now that we are a seven-man public Board, what will the operational changes be? The answer is, very little. The reason is that the Board's "step one" was completed and its long-time projection was to be meeting for secondary policy considerations only—and *then* only on a one- or two-day schedule every other

week. Contrasted to the three-to-five day and night weekly meetings since late October—and many weekends, etc.—the Board was ready to go into “semiretirement” and leave the case handling and day-to-day administration up to a three-man panel and the Pay Board staff. In fact, the schedule we are now on is the one established a month ago by the tripartite Board.

But for the fact that we were finished with our basic policy matters, the absence of the labor and business members—and their own staff support—would have seriously affected the work of the Board. We relied very heavily on both of these sectors for expertise and manpower. Still, their absence is somewhat felt in the residual work of finishing up some of the regulations.

I guess I have painted a somewhat rosy picture of the Pay Board operations—probably rosier than it really is. I realize I’m in the middle of the forest, and perhaps I can’t see the trees—but then, too, I’m an incurable optimist. In any event, that is how I see the Pay Board as it is today—and how I believe it will continue to operate.

Before I retire to my seat, I must acknowledge the fact that several members of the Academy had a great deal to do with my nomination and selection as Executive Director of the Pay Board. While I am undecided at this time whether that was an act of kindness or vengeance—my dear wife is clear that it was the latter, since I now don’t see too much of either her or our sons.

But, most sincerely, I am personally honored that several of the members of the Academy had the confidence in me to nominate me for the job. The enriching associations I have had are pure gold. Judge Boldt is, indeed, one of the finest men I have ever known. (And, although it’s another story, it is probably *because* of Judge Boldt being at the helm that the 15-man tripartite Board stayed together as long as it did.) Millard Cass, the Administrative Director, is another superior person. And, as all know who have ever toiled in the labor-management business in Washington, if it can possibly be done (legally), Millard can and will get it done.

Then there are the other 170 people—outstanding and extraordinarily hardworking people. I am sure I will never again be associated with such talented and dedicated people in such numbers.

In spite of all these wondrous experiences, associations, and challenges, I already am beginning to look forward to the time when I will again be involved with only five emergencies a month instead of the Pay Board's five-a-day schedule.

And, again in spite of it all, I am certain the War Labor Board and Wage Stabilization Board alumni know the feeling when I often reflect upon that famous saying of the pussycat—while making love to the skunk—"I think I've enjoyed this about as long as I can stand it."

