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THE 1951 amendments to the Defense Production Act of 1950 provided for separate wage control machinery to administer the federal wage stabilization program for the airline industry.[1] General Order No. 7 (Revised) of the Economic Stabilization Administrator[2] established the Railroad and Airline Wage Board (RAWB), which carried out this function from September 27, 1951, until the suspension of direct wage controls by the President on February 6, 1953.[3] This article will review and evaluate the effects of RAWB operations.

Airline employees were subject to the same wage and salary controls that governed industry generally from January 25, 1951, the date of imposition of the general wage freeze,[4] until July 31, 1951, the expiration date of the Defense Production Act of 1950. During this period the stabilization of wages and salaries was under the jurisdiction of the Wage Stabilization Board (WSB), or the Salary Stabilization Board (SSB), depending upon whether the employees concerned were nonexempt or exempt under the Fair Labor Standards Act, the former being under the WSB, and the latter the SSB.[5] Neither the WSB or the SSB during this period, however, developed any special policies to accommodate the wage practices of the airlines. The WSB, on June 21, 1951, did establish a special interim Rail and Air Transport Appeals and Review Committee, a tripartite panel, to process cases involving employees subject to the Railway Labor Act, but it was only in existence until July 31 of that year, and no special rules were developed for the airlines. In April, 1951, there was established a Temporary Emergency Railroad Wage Panel that was charged with making findings and recommendations concerning a recently concluded wage agreement covering

[1] 65 STAT. 134, §105(a), (b) (1951); The Defense Production Act of 1950, as amended §403(a), §502.

[2] Dated September 27, 1951.

[3] Executive Order 10434 (February 6, 1953).

[4] General Wage Stabilization Regulation 1 (January 26, 1951).

[5] Section 13(a) (1) of the Fair Labor Standards Act exempts from the minimum wage and maximum hour requirements "any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the administrator)." The requirements for exemption under this section of the act are contained in regulations, part 541, issued by the Wage and Hour Administrator (29 CFR, pt. 541).

non-operating employees on the railroads,[6] and in August, 1951, the Panel was reactivated and entrusted with handling on an interim basis (until establishment of the RAWB) wage stabilization cases in both the railroad and air transport industries.[7] Even during this latter period, however, the Panel, under the chairmanship of Dr. William M. Leiserson, operated on a case-by-case basis, and never adopted any general principles for the handling of matters involving airline employees. The task of developing policies for the regulation of airline wages was left to the RAWB.

Structure and Functions of the RAWB

The RAWB was composed of three career civil servants with expert knowledge of labor problems in the railroad and air transport industries. Only the chairman, Nelson M. Bortz, served on a full-time basis. He was responsible for administration of the affairs of the Board, and was the only member of the Board who participated in the day-to-day processing of cases. It was possible for the internal organization and operating techniques of the RAWB to be kept quite informal, because of the compactness of the two industries subject to its jurisdiction, and because of a very small staff.[8] The RAWB's primary function was to review applications for wage increases to determine whether they were approvable under the standards set forth in the wage and salary regulations. Throughout its existence the Board relied for the most part on the standards contained in regulations promulgated by the WSB and the SSB, it having been decided that this was desirable rather than for it to draft its own regulations that might be at variance with those applicable to industry generally.[9] All RAWB orders approving wage adjustments contained a certification required by Section 502 of the Defense Production Act, that the approved adjustments were "consistent with standards now in effect . . . for the purpose of controlling inflationary tendencies," and carried the countersignature of the Economic Stabilization Administrator. A secondary function of the RAWB was to review arbitration and emergency board decisions for the Economic Stabilization Administrator.

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[6] General Order No. 7, issued by the Economic Stabilization Administrator (April 9, 1951).

[7] General Order No. 7, Amendment 1, issued by the Economic Stabilization Administrator (August 17, 1951).

[8] Total number on the staff of the RAWB did not exceed twelve. The average budget allocation was $75,000.

[9] General Railroad and Airline Stabilization Regulation 1, originally issued November 29, 1951, and revised May 23, 1952, simply adopted without change appropriate regulations of the WSB and SSB. The line of demarcation between RAWB and SSB jurisdiction was unclear, because the former had jurisdiction over "employees subject to the jurisdiction of the Railway Labor Act." Under the Railway Labor Act the term "employees" includes the lower echelon of supervisory officials. These employees are exempt under the Fair Labor Standards Act definition, but were subject to RAWB jurisdiction. See MacIntyre, *The Railway Labor Act—A Misfit for the Airlines*, 19 J. Air L. & C. 274, 276 (1952). Therefore, where these employees were not represented by unions, the RAWB applied standards contained in regulations of the SSB, the regulations of which differed slightly from those of the WSB. All other management officials remained subject to SSB jurisdiction throughout the stabilization period.

The RAWB tried to give the airline industry "good service" by expediting the processing of cases,[10] having its staff always available for consultation with management and union officials, and by attempting to educate the parties under its jurisdiction in understanding the regulations and how they could be complied with. Every RAWB order contained an explanation of the factors underlying the decision, in an attempt to make its administrative actions understood. The RAWB's mode of operation was made possible by the cooperative attitude of the industry which was also reflected in the completely insignificant incidence of noncompliance or violation of the regulations.

The basic standards used by the RAWB in processing airline petitions, as reflected in the regulations that it administered, fell into three general categories: (a) General wage increases did not require approval, if they did not exceed 10 percent above January, 1950 wage levels,[11] plus the percentage increase in the cost of living from January 15, 1951 to the date of the proposed increase;[12] (b) Those regulations which permitted "housekeeping" or "day-to-day" compensation practices in effect on each airline prior to the wage freeze to continue in effect without requiring approval of the controls agency (this included increases based on merit or length of service, promotions, etc.);[13] (c) Those regulations which dealt with adjustment of wages and working conditions on one airline to conform more closely with wages and working conditions in the airline industry as a whole, or in a particular region.[14]

One of the most significant aspects of the RAWB's operations was its development of methods for applying the standards set forth in these regulations to ascertain unique wage practices of the airline industry. Two of the more important of these wage practices which required special standards were: (a) Relatively long automatic length-of-service wage progression ranges for many groups of employees. (Under these plans employees are hired at one rate, advance to a higher rate at the end of six months, and continue to move up to higher rates at six-month or one-year intervals, in some classifications not reaching the top of the scale until after seven or eight years' service); (b) Complex methods of wage payment utilized for some members of flight crews. The problems presented by this latter subject will be discussed subsequently in the section entitled "Extension of the Flight Pay Formula."

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[10] The RAWB inherited a backlog of 321 cases of which 41 were airline cases. During the period of its existence it processed 1402 cases of which 437 involved airlines. RAILROAD AND AIRLINE WAGE BOARD, FINAL REPORT AND SUMMARY OF ACTIVITIES 6 (March 31, 1953).

[11] General Wage Regulation 6, as amended; General Salary Stabilization Regulation 1 (amended), §22.

[12] General Wage Regulation 8 (revised), as amended; General Salary Stabilization Regulation 1 (amended), §41.

[13] General Wage Regulation 5 (revised), as amended; General Salary Stabilization Regulation 1 (amended), Art. V, VI.

[14] General Wage Regulation 10, as amended; General Salary Stabilization Regulation 1, (amended), §43; General Wage Regulation 13 (revised), as amended; General Salary Stabilization Regulation 1 (amended), §44, 91; General Wage Regulation 17; General Salary Stabilization Regulation 1 (amended), §42.

AUTOMATIC WAGE PROGRESSION PLANS

The primary problem confronting the RAWB was to apply the cost-of-living and other appropriate yardsticks of the stabilization program to wage increases that had been applied to automatic wage progression schedules. Agreements for general wage increases took several forms: (a) increases in equal amounts to all steps of the existing rate range; (b) increases in unequal amounts to all steps of the existing rate range; (c) increases to some but not all steps of the existing range; (d) lengthening of the progression plan by the addition of steps to the top of the existing range. Frequently the RAWB was called upon to consider a combination of these forms.

The first of these types of adjustments, equal increases to all steps, created no problem. The amount of such increases was easily computed in terms of the 10 percent and cost-of-living provisions of the regulations, and could be put into effect by the parties without approval. When progression schedules were adjusted unequally, or lengthened, however, such as described in (b), (c), and (d) above, the exact amount of the resulting wage increases was difficult to compute. Since long progression ranges of this type are not commonly encountered in other industries, the WSB had not delved very deeply into the matter, and its rules tended to have an extremely arbitrary impact insofar as the airlines were concerned. The WSB rule regarding application of the so-called "10 percent formula" required that the amount of the largest increase to any step in a rate range be offset against the permissible 10 percent.[15] This rule assumed that every employee ultimately obtained the largest increase received by any employee in the job classification, an unrealistic assumption in many instances. With respect to the cost-of-living increases provided for by the regulations, the WSB rule required that all increases be distributed in equal amounts or percentages to all employees in the unit.[16] This rule also had an arbitrary effect on the automatic wage progression scales of the airlines. The fourth type of increase frequently encountered by the RAWB, lengthening of progression plans, also posed a problem. All such adjustments had to be submitted to the RAWB, and were generally approved, if not in excess of industry practice.[17] If the proposed additional steps went beyond industry practice, the RAWB was faced with the problem of how the cost of such adjustments should be calculated, in order for them to be properly offset against amounts legally permissible under the 10 percent and cost-of-living formulas.

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[15] General Wage Regulation 6, as amended, Interpretation 40(IV) (d). This was commonly referred to as the "total effect" rule.

[16] General Wage Regulation 8 (revised), as amended, Official Questions and Answers Nos. 6, 27.

[17] General Wage Regulation 5 (revised), as amended, §2(a) (vi) required modifications of existing plans governing individual wage or salary increases to be considered in the light of the employer's past practice and relevant practice in the industry, occupation and/or area, as appropriate.

The second and third types of increases indicated above, and with which the RAWB had to deal, obviously result in unequal increases for different employees within a craft or class. Lengthening of progression schedules, the fourth type of increase frequently proposed during the Korean emergency stabilization period, is also primarily a form of unequal increase, for those employees at the top of the scale are the ones primarily benefited. Proposals to lengthen progression schedules coincide with increased average seniority of employees within a given craft or class. If the RAWB had stuck to a policy of holding progression schedules to existing lengths, it would have had an arbitrary effect on a particular carrier, unless that carrier already had the longest wage schedule for that craft and the actual wage increases resulting from moving ahead of the industry were greater than those permitted by the general-increase regulations of the WSB. In other words, interference with this aspect of airline wage practices would be justified only to prevent the possibility of particular rates advancing so far beyond the prevailing rates as to create pressures for an upward movement of the prevailing level of rates.

Unequal adjustments of airline wage progression schedules reflects the instability of intraoccupational wage structures among various employee groups in the airline industry, as well as the evolution of interoccupational wage relationships. The self-administering regulations of the WSB which permitted limited general increases assumed stable wage structures. Therefore, the WSB regulations, when strictly interpreted, had the effect of prohibiting variations in the wage structure, and imposed an arbitrary pattern upon an evolving and dynamic aspect of airline wages. Confronted with petitions proposing one, or a combination of the forms of general wage increases indicated above, the RAWB had thrust upon it the problem of measuring the size of these proposals with the appropriate standards contained in the regulations of the WSB. In order to do this adequately, and in order not to disrupt normal airline industry wage practices, the Board devised certain special rules to meet the problems presented.

Without going into these rules in detail, suffice it to say that the first goal of the Board was to find a workable method of computing the actual inflationary effect of these normal airline wage practices. There is no simple arithmetic rule for measuring such changes. Adjustments of this type involve future, as well as immediate wage increases. The amounts of future increases depend upon how employees are distributed at various steps of the wage schedule, and the rate of employee turnover; these factors determining how many employees reach the steps of the schedule being adjusted by the greatest amount. In general, the objective of the RAWB was to endeavor to obtain an approximation of the "immediate" and "total" wage increases that would result from the proposed unequal increases, or addition of progression steps, from

the proposed effective date of the first increase to the scheduled end of wage controls (April 30, 1953).

The second goal of the Board was to minimize interference with wage adjustment practices of a non-across-the-board nature, without granting preferred treatment that would open loopholes and lead to a general advance in the level of wages. Thus, for example, when a proposed general wage increase was distributed unequally through the steps of a rate range, and the "total effect" rule had an arbitrary effect,[18] the Board sought alternative measures. These measures varied, but again there was taken into consideration the distribution of employees in the rate range as compared to the location of the larger increases, as well as the rate of turnover, in order to obtain an offset against the permissible 10 percent which would be least arbitrary and best carry out the intent of the regulation. By the same token, the Board did not hold strictly to the WSB rule that required cost-of-living increases to be on an across-the-board basis, but permitted variations where the WSB rule would lead to arbitrary results.

At the same time that the RAWB was adapting the regulations to airline wage practices, the WSB was adopting special rules in similar situations to serve as "escape valves" for greater wage increases while at the same time maintaining an appearance of conformity to official ceilings.[19] The WSB approach for dealing with unequal wage adjustments, however, would have resulted in special and arbitrarily favorable treatment to those crafts and airlines adjusting wages on a varying as compared to an across-the-board basis. The RAWB rules were more restrictive on total increases, but gave greater equality of treatment than the WSB's special rules.

Differences between WSB and RAWB policies with respect to administering the wage regulations can be attributed to the relatively favorable political and economic climate in which the RAWB operated, and the fact that it had dealings with but two industries. Outside pressures upon the RAWB were minimized by (a) the absence of a dispute settlement function, and (b) the RAWB's policy of adopting *in toto* regulations previously promulgated by the WSB. Complaints against basic stabilization policy had to be directed at the WSB, the agency that had established the policy.

Built-in characteristics of the economics of the air transport industry generally operate to restrain the rate of advance of wages. Increases in industry productivity, to a large extent, have been passed on to the consumer in the form of lower fares and better service. Rapid technological progress has made the long-run economic position of the industry stronger, but the sizeable cost of modernizing and operating air fleets has prevented any substantial improvement in the immediate

[18] See note 15, *ante*.

[19] Shortening of wage progression schedules in the telephone industry was approved by the WSB on the finding that no employees would receive future wage increases as a result of such adjustments.

short-run financial position of the airlines. The high proportion of labor costs to total operating costs has also generally reduced the ability of management to increase wages rapidly. These wage restraining influences have tended to counterbalance the increased bargaining power of labor in the industry, and the upward pressures created by shortages of certain types of skilled workers at a time when the industry has been expanding its employment.

Airline wage adjustment practices have also created a pattern of orderly and moderate wage increases. For example, during the period of stabilization under consideration, the predominance of fixed-term agreements, and the attention devoted to adding steps to progression schedules and revising wage structures, tended to reduce the (a) frequency, (b) scope, and (c) cost of general wage advances. Even American Airlines' cost-of-living escalator provision including an annual "improvement factor" that was contained in that carrier's three-year agreement covering maintenance employees failed to have a particularly widespread effect on wage level increases in the industry, either with respect to their frequency or size. Perhaps it is significant that the American escalator arrangement was one of the most conservative to be found in any industry during this period.[20]

The official wage regulations permitted the airline industry its greatest leeway for effectuating wage increases at those points in the total wage structure where increases tended to be the largest. For example, general increases permissible under the regulations were calculated on a percentage of average earnings as of a particular date for a craft or class unit. Thus, highly skilled groups whose average earnings were the highest were able to obtain greater cents-per-hour increases than lesser skilled groups. Further, airlines that had given relatively small general increases in 1950 could "catch up" to those carriers which had given more substantial increases. In addition, airlines paying low rates to certain groups of employees, for example, to clerical, and ticket and reservations classifications, where there is a notable lack of wage uniformity in the industry, could obtain approval of larger adjustments based on inter-carrier inequity than carriers paying higher rates to these classifications. As a result of these characteristics of the regulations,

[20] The American Airlines escalator clause contained several features which acted as brakes retarding wage escalation. The first was the fact that adjustments were based on an average of three monthly cost-of-living index figures. The use of an average figure, rather than the most recent index such as used in most escalator agreements, resulted in wage changes somewhat less than the actual cost-of-living change when it was moving in a continuous upward or downward trend. Secondly, the average cost-of-living change had to equal 2.35 index points before a wage adjustment was effected. In the usual General Motors-type or railroad escalator provisions an index change of 1.14 or 1 point respectively would result in a wage adjustment. Thirdly, the American Airlines agreement permitted a maximum adjustment of only eight cents per hour up or down in any twelve-month period. This "maximum" had the effect of preventing large wage adjustments when prices were changing rapidly, and of postponing them until a period when price level changes had become more moderate. Industry generally had no similar "maximum" provision.

throughout the stabilization period relatively few wage agreements actually pierced the official ceilings. Undoubtedly, consistent administration by the RAWB also contributed to keep industry wages in line. The Board was careful to veto increases to any group of employees in any craft or class which actually exceeded the official ceilings. Such wage advances were not frequent, although they occurred more often in the last few months of 1952 and the first few weeks of 1953. By that time, the cost-of-living index had ceased to rise, and the termination of controls seemed probable in the near future.

Extension of the Pilots' Flight Pay Formula

During the stabilization period the most significant changes in the wage structure of the airline industry occurred among the flight crew crafts as a result of the breakdown of the sharp division in methods of wage payment for copilots and flight engineers as compared to first pilots.

Revision of the method of compensating copilots followed recommendations of an emergency board (No. 94) appointed by the President in January, 1951, pursuant to the Railway Labor Act, to consider a dispute involving American Airlines and the Air Lines Pilots Association, AFL, (ALPA). Prior to this time copilots received a flat salary, or base pay only, while captains earned base pay and flight pay.[21] The emergency board, reporting on May 25, 1951, recommended that copilots, after the second year of service, should receive flight pay amounting to 55 percent of that earned by the captain, and a corresponding reduction in base pay to a level generally similar to the captain's. The principle recommended, extension of the flight pay formula, was incorporated into all major agreements in the industry covering copilots that were negotiated in the latter part of 1951.

In 1952 the craft of flight engineers also demanded a flight pay formula that was designed to restore its members to the position of second highest paid member of the flight crew, a status taken over by copilots as a result of the then newly negotiated agreements with the ALPA. The demands of the flight engineers were considered by an arbitration board and three presidentially appointed emergency boards followed by prolonged negotiations on the major carriers. As emergency stabilization controls were being ended, the industry was converting flight engineers to the pilots' flight pay formula.

Extension of the pilots' flight pay formula involved very definite stabilization problems. So long as copilots and flight engineers remained under a flat length-of-service salary progression schedule, their salaries would not increase automatically as heavier and faster aircraft were

[21] The pay formula for first pilots includes: base pay varying with length of service; and flight pay consisting of — hourly pay varying according to the pegged speed of the aircraft operated and whether flying is during the day or night; gross weight pay of specific cents per pound of the gross weight of the aircraft per hour; and mileage pay based on the miles flown by a pilot during a month.

put into service. Nevertheless, as aircraft become heavier and more complex the duties and responsibilities of copilots and flight engineers increase just as do those of pilots. However, under the flight pay formula, earnings of pilots would increase under these circumstances, while the earnings of copilots and flight engineers who were on a flat monthly salary would not. Thus, a wage inequity was developing among flight crew members, the solution to which ultimately had to be considered in the light of wage stabilization policies.

In addition to revising the method of compensating copilots, agreements negotiated in the summer and autumn of 1951 between the major domestic air carriers and the ALPA provided for pay increases for first pilots. The pay structure for captains had not been altered since 1947 and 1948, and although their earnings had increased, this was the result of the operation of larger and faster air fleets, rather than any general pay increases. When called upon to give its approval to the increases negotiated for first pilots the RAWB was faced with the question of how the flight pay components were to be considered in relation to the wage ceilings. The regulations were conceived in terms of simple time or piece rate methods of wage payment. Such rates could be increased in line with the general increase formulas. However, the "wage rate" of pilots is the earnings resultant of various component factors. Actual earnings are affected by a great number of matters including changes in type of equipment, composition of pilot forces, and airline policy with respect to the utilization of pilots.

The RAWB determined that the negotiated increases for captains did not exceed wage ceilings.[22] Applying the negotiated flight pay formulas to the flight experience of a "normal" month in the second half of 1951, the Board found that the average immediate increase in captains' earnings varied on different airlines, primarily due to differences in the mileage pay factor that was included in the different agreements.[23] Estimated increases averaged from 10 percent to 11.8 percent under the "Eastern formula," and 13.6 percent under the "TWA formula."[24] It was also noted that although the "Eastern formula" re-

[22] This action was taken under the base period abnormality provision of General Wage Regulation 6, as amended (§4), and the cost-of-living provision of General Wage Regulation (revised), as amended. The most recent month for which data were available was chosen as a substitute "base date" in lieu of January 15, 1950, the "normal" base pay period for measuring changes under the stabilization program. This was deemed appropriate, because of the substantial changes in flight equipment and composition of labor forces during the two or three years preceding consideration of the pilot petitions (January-February, 1952).

[23] The agreement concluded between Eastern Air Lines and the ALPA established a pattern followed by several other carriers that provided for "step" increases in mileage pay which varied the cents-per-mile rate according to the number of miles flown during a month (1¢ per mile for each mile flown up to 17,000, 2¢ for each mile flown between 17,000 and 22,000, and 3¢ for each mile flown in excess of 22,000). TWA and a number of other carriers followed a course of paying a flat or uniform mileage rate of 1½¢ for each mile flown.

[24] RAILROAD AND AIRLINE WAGE BOARD, ADMINISTRATIVE HISTORY (Typewritten) 66 (1953).

sulted in smaller immediate increases, it allows greater potential increases than the "TWA formula" as aircraft speeds increase.[25]

The RAWB's basic method of handling the pilot agreements was to treat captains and copilots as two separate groups, since they both involved the application of separate stabilization principles. As for copilots, the American Airlines emergency board had found that the pay differential between captains and copilots had been steadily widening, and that with the post-war introduction of faster and larger aircraft the duties and responsibilities of copilots had increased measurably. Accordingly, the emergency board had concluded that the copilots' "work and position entitle them to the same type of incentive pay which the first pilots have," and thus recommended that they be placed on a pay plan which would "parallel that of the first pilots as closely as possible." The carriers and the ALPA, in their subsequent negotiations, accepted the recommendations of the emergency board. In no instance, however, did the negotiated flight pay formula go as high as 55 percent of the captain's flight pay. In most contracts it was set at from 40 to 50 percent. The RAWB estimated that the average immediate increases in copilot earnings ranged from 10 percent to 25 percent on most airlines.[26] The Board found that the increases consisted of (a) general increases tied to those received by captains; (b) increases resulting from conversion from one system of payment to another; (c) an adjustment to eliminate an inequity and maintain appropriate differentials between captains and co-pilots; (d) in some cases individual re-evaluation of the job where the original scales were set without adequate flight experience. Approval was granted by the RAWB, therefore, under applicable stabilization regulations covering new or changed jobs and correction of intra-plant inequities.[27]

Correction of the captain-copilot inequity resulted in termination of the status previously enjoyed by the third member of the cockpit crew—the flight engineer. Prior to revision of the method of compensating copilots, the flight engineer had been the second highest paid member of the flight crew, second only to the captain. Under the 1951 pilot agreements the average earnings of copilots surpassed those provided for in agreements covering flight engineers. Consequently, in the early months of 1952 the major airlines were presented with contract proposals by representatives of the flight engineers requesting conversion in method of compensation from a flat monthly salary to a method like that of the pilots, involving both base pay and incentive-type flight pay.

The flight engineer requests were first considered in an arbitration between Eastern Air Lines and the Flight Engineers International As-

[25] For a comprehensive discussion of the history and principles involved in the 1951 pilot settlements, see Luther, *The Development of the Mileage Limitation Concept For the Airline Pilot*, 20 J. Air L. & C. 1 (1953).

[26] RAILROAD AND AIRLINE WAGE BOARD, *op. cit. supra*, note 24, at 67.

[27] General Wage Regulation 5 (revised), as amended, §6; General Wage Regulation 18.

sociation, AFL. The award dated April 15, 1952, provided for a basis of pay similar to that of captains and copilots, consisting of base pay plus flight pay increments. Although the arbitrator stated that the award "maintains the historic differential in pay between flight engineers and captains," it was far from satisfactory to the union which later challenged it in the courts on the ground, among others, that the recommended increase was less than amounts that would have been permitted under the wage stabilization regulations.[28] It thus appeared that the main issue in the dispute was the amount of general wage increase, rather than the method of wage payment.

Subsequently, three emergency boards (Nos. 101, 102, and 103) were appointed to recommend terms of settlement of similar disputes between the flight engineers and Trans World Airlines, Northwest Airlines, and United Air Lines respectively.[29] The first two boards recommended increases in flat monthly salaries of approximately 10 percent, the maximum permissible for these employees under the wage ceilings, but the flight engineers rejected the recommendations. After subsequent negotiations, agreements were concluded on both TWA and Northwest which provided for conversion to a flight pay formula that entailed an immediate increase in earnings for the flight engineers of both carriers averaging approximately 10 percent,[30] the same amount recommended by the two emergency boards.

Emergency Board No. 103 was convened to make recommendations in the dispute between United Airlines and the flight engineers in its employ after there had been two strikes in the industry resulting from rejection by the flight engineers of carrier offers based on the recently concluded TWA agreement.[31] The TWA settlement did not measure up to the flight engineers' expectations of a general wage increase as large as that which had been received by the copilots. On January 2, 1953, the United Airlines emergency board recommended conversion to a flight pay formula designed to yield a level of earnings comparable to that received by the flight engineers of TWA and Northwest under their new agreements. The agreement that was subsequently concluded on United, though resulting in a slightly larger increase than had been recommended by the emergency board, incorporated the method of wage payment consisting of base pay plus flight pay.[32]

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[28] Affidavit of Fact in Support of Petition of Flight Engineers International Association, EAL Chapter, A.F.L. to Impeach Arbitration Award, In re Eastern Airlines, Inc., Civil Action No. 4331-M (D.C., S.D. Fla. 1952).

[29] The flight engineers employed by Northwest are represented for purposes of collective bargaining by the International Association of Machinists, AFL. On the other two carriers the Flight Engineers International Association represents this craft of employees.

[30] RAILROAD AND AIRLINE WAGE BOARD, *op. cit. supra*, note 24, at 68.

[31] Raskin, *United's Big Planes Grounded by Strike*, N.Y.Times, Nov. 6, 1952, pp. 1,43; Ronan, *Strike Halts Planes of Eastern Airlines*, N.Y.Times, Dec. 2, 1952, pp. 1,19.

[32] The RAWB did not have an opportunity to act upon the United agreement, due to the suspension of wage controls.

As a result of the new method of wage payment established for flight engineers in the industry, maximum earnings opportunities for these employees increased substantially beyond the wage ceilings then in effect. However, the RAWB concluded that the probable actual increase in flight engineers' earnings as a result of the new formula would not exceed on a normal utilization basis, the flat monthly salaries clearly approvable under the appropriate regulations and recommended by the emergency boards.[33]

The history of the flight engineers' wage movement of 1952 indicates that the RAWB probably could have done little to prevent extension of the pilots' flight pay formula to this group of employees. The correction of inequities in the airline industry paralleled similar corrections and improvements in employee status that were taking place in industry generally during the Korean emergency period. Though such actions have a definite inflationary bias, they were permissible under the generally flexible economic controls of the period.

EVALUATION

Certain general questions can be asked regarding the airlines' experience during this emergency stabilization period:

> *Would the industry have fared better, if it had remained under the jurisdiction of the WSB, rather than being included with railroads under a separate board?*

Criteria for judging the most preferable type of wage control machinery for airline industry include: the degree of restraint on wage increases effectuated by wage ceilings; minimum disruption of normal industrial relations and wage practices; efficiency and quality of controls administration; effect of controls with respect to possible increases in industrial strife; costs to the carriers of complying with burdensome paper work, and possibly becoming involved in litigation resulting from violations of the regulations; political conflicts created by controls which impair relationships between carriers, the government, and the public.

The major factor accounting for the airlines being placed under a separate agency in time of emergency wage control is that they are not subject to the general labor law of the land (Taft-Hartley Act), but along with the railroads are subject to the Railway Labor Act. This statute, entirely different in concept than the Taft-Hartley Act, places primary emphasis on dispute settlement procedures, and provides a legal framework quite different from that in which industry generally operates.[34] This fact, though not sufficient justification in itself for

[33] The RAWB found that the average flight utilization of flight engineers by the airlines whose cases were before it was typically 75 hours per month.

[34] See MacIntyre, *op. cit. supra*, note 9; Frankel, *Airline Labor Policy, The Stepchild of the Railway Labor Act*, 18 J. Air L. & C. 461 (1951).

placing the railroads and airlines under separate wage control machinery, lends itself to various arguments that the railroad unions, the railroads, and/or other interested parties, make from time to time in favor of separate treatment for rail carriers. Assuming acceptance of the view that the railroads benefit from separate stabilization machinery, the airlines are more or less carried along by sheer momentum, since they are the only other industry subject to the Railway Labor Act. When the fact that the airlines conduct their labor relations within a legal framework different from that affecting the rest of industry, is combined with the unique character of the wage structures in the industry, strong argument can be made for separate stabilization treatment for air carriers.

During the recent period of wage stabilization the RAWB pursued a policy of conservative administration of the regulations. In fact, in certain respects the RAWB ceilings were lower than the WSB ceilings. Comparison of wage increases approved in the airline industry with approved increases in transportation industries subject to WSB jurisdiction bears this fact out, as does comparison of policies followed by the two agencies in administering the regulations with similar wage structures (the airlines, and the telephone industry, for example). There can be little question that conservative standards such as those maintained by the RAWB are beneficial to the general public in time of inflation, and who would doubt that the airline industry itself achieves short-run economic benefit from restraints thus being placed on general wage increases?

Although a few airline unions may have been disadvantaged by the stricter administration of wage controls, there was no serious criticism of RAWB policies from union sources. By the same token, there were no airline strikes as a result of RAWB action, although one union did refuse to work overtime in an attempt to hasten processing of a pending case by the Board.[35] Relatively few negotiated increases failed to receive Board approval, because the general advance in wages during this period was, on the whole, moderate and orderly. Most of the restraint fell upon the highest paid employees in a craft or class. The concern of the RAWB that traditional wage adjustment practices be permitted on a basis that treated all employees equally, prevented union rivalries from becoming more serious. If the wage regulations had been applied strictly, traditional airline wage practices would have been disrupted, and serious inequalities of treatment might have resulted.

Efficiency, as well as quality of administration of wage controls were high, because there were only two industries under RAWB jurisdiction. Further, railroad stabilization policy having been almost completely developed prior to the summer of 1951 by the Temporary Emergency Railroad Wage Panel (Leiserson Panel), the RAWB de-

[35] RAILROAD AND AIRLINE WAGE BOARD, *op. cit. supra*, note 24.

voted most of its attention to the airlines. The WSB with so many other industries, both substantially larger, and with more serious problems, would hardly have been able to give the detailed attention and study to the airline industry that was given by the RAWB.

The RAWB consciously attempted to reduce the costs of direct controls to carriers by minimizing the paperwork involved in submitting applications, preparing additional information, etc. The fair and impartial manner of the Board and its staff engendered an attitude of cooperation on the part of a majority of the air transport industry. The Board further encouraged this cooperative atmosphere by its policy of holding periodic conferences during the stabilization period with representatives of the industry, and separate conferences with representatives of the unions active in the industry. In part, these conferences were educational, but in part they were the Board's substitute for a formal enforcement program. The cooperation shown by the industry and unions is indicated by the fact that there was almost universal compliance with the regulations, and up to the termination of controls, the RAWB had not initiated a single enforcement action against an air carrier. The WSB, operating in an atmosphere of perpetual crises and preoccupied with larger industries would not have been able to give the service that was rendered by the RAWB. The noncontroversial operation of the RAWB, and the freedom from pressures that it enjoyed undoubtedly benefitted the air transport industry, for airlines are dependent upon the goodwill of the government as well as the public.

In view of the considerations indicated above, there would seem to be little doubt that it was advantageous to the airlines to be under the jurisdiction of the RAWB, rather than the WSB. It is also indicated by the discussion above that regulations closely adapted to the airline industry are justifiable, provided they are not based on privileged treatment, but on good service.

Would the airlines have fared better if the wage stabilizers recommended terms of settlement of disputes rather than continuing the only slightly modified peacetime procedures of the Railway Labor Act for the settlement of disputes?

Although the WSB under the terms of the Defense Production Act was given a role in the settlement of labor-management disputes, the wage control and dispute settlement functions were kept separate for the railroad and airline industries, in an effort to continue the peacetime dispute settlement machinery provided for by the Railway Labor Act. The only link between dispute settlement and the control machinery was the requirement that arbitration awards and emergency board recommendations be certified as "consistent with such standards as may then be in effect, established by or pursuant to law,

for the purpose of controlling inflationary tendencies."[36] The Economic Stabilization Administrator had the power to set aside the findings of arbitration or emergency boards, but it was never exercised.

The certification requirement performed two functions: (a) The general wording of the Defense Production Act provision permitted recommendation of increases slightly more or different than those permitted by the regulations. Such recommendations are often needed to resolve emergency disputes in cases where the cooperation of labor is needed to continue defense production without interruption. However, by having separate *ad hoc* dispute settlement boards or panels, such over-the-ceiling recommendations are less likely to set a precedent than where dispute settlement and wage control are both vested in the same governmental body. Thus, the certification device is useful in settling disputes without generally lifting wage ceilings. (b) Under the Defense Production Act the deviation of recommendations from wage ceilings had to be relatively small, because the certification implied that a recommendation of an over-the-ceiling adjustment would not serve as the basis for a general abandonment of wage ceilings. That is, it had to be certified as "consistent with . . . standards . . . then in effect . . . for the purpose of controlling inflationary tendencies."

On the basis of the above discussion it would seem that there are definite advantages to the separation of dispute settlement and wage control machinery when carried out along the lines utilized for the railroads and airlines in the Korean emergency period. One of the factors to be kept in mind when considering the matter, however, is that the desirability of this technique is dependent upon the continuation of the Railway Labor Act. Two recent articles in this journal have contended that continued application of the act to the airline industry is undesirable.[37] Both articles place particular stress on alleged deficiencies in the emergency board system, the last step in the dispute settlement procedure provided for in the act. The conclusion reached in these articles is debatable. As far as the airlines are concerned, the experience with emergency boards has not been entirely unfavorable. Emergency boards established in both the pilots' and flight engineers' disputes discussed previously were "successful," in that following the emergency board recommendations, agreements were concluded without serious strikes or serious disruptions of wage relationships. It must be kept in mind with respect to emergency boards that their recommendations need not be incorporated without change in subsequently concluded agreements for them to have succeeded. The emergency board creates the framework and basis for resolving serious disputes; it is not an instrument for compulsory arbitration.

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[36] The Defense Production Act of 1950, as amended, §502.

[37] MacIntyre, *op. cit. supra*, note 9; Frankel, *op. cit. supra*, note 34.

Is a tripartite stabilization agency preferable for the airline industry, rather than an all-public body such as the RAWB?

There is much merit to the view that during emergencies, if government is able to command the required cooperation from labor and management, all-public wage stabilization agencies are preferable to tripartite agencies, because their role and responsibilities for helping in the success of the stabilization program are clearer. The record of tripartite boards is subject to criticism, because of their tendency to administer on the basis of expediency and compromise. Tripartism is unwieldy in the area of development and modification of wage policy, as well as in the administration and enforcement of such policy. The tendency for tripartite boards to break up because of conflicts of interest between labor and management members also contributes to the weakness of this technique. There is justification for the tripartite mode of procedure, however, when the absolute cooperation of both labor and management is needed in time of national emergency, and to give them a voice in the formation and administration of policy is the best way of securing it.

In any event, the successful administering of wage controls by the all-public RAWB points to the advantage of this technique, at least under comparable circumstances. The administration of controls by a tripartite board for employees subject to the Railway Labor Act would be very difficult in practice. Both of the industries covered by the act, railroads and airlines, would seek equal representation on such a board. There are great differences between carriers within the respective industries, particularly in terms of size, geographical area served, number of employees, etc. Some sort of fair representation would have to be given. Similar problems exist with respect to unions in the two industries. Not only would employees of both industries want to be represented, but there are also AFL, CIO, and independent unions representing many different crafts, with just as many interests at stake. A tripartite board would be altogether unwieldy in size under these circumstances.

Public policy with respect to labor relations in these two industries, as witnessed by the Railway Labor Act, points to impartial or public administration.[38] Certainly, an all-public board is not subject to as much pressure as a tripartite body to make decisions based on the relative size and economic strength of various companies and unions subject to its jurisdiction. As mentioned above, during the period of its existence the RAWB held a number of policy conferences with representatives of industry and labor, purposely seeking out their

[38] For another discussion of governments' role in the airlines' industrial relations picture, see Kahn, *The National Airlines Strike: A Case Study*, 19 J. Air L. & C. 11 (1952).

views. In a sense, this was a substitute for tripartism. Finally it should be noted that both the airlines and railroads are accustomed to controls administered by civil servants, and have not insisted upon tripartism in the administration of wage controls.

What guides for future stabilization programs can be derived from the RAWB experience?

The RAWB received relatively little criticism from either management or labor sources during the period of its operation. This is to its credit, and to the credit of its staff. In general, the administration of wage controls by the Board would appear to have been successful. However, the success of any such board that might be established in another period of emergency depends upon the extent to which economic and political factors are as favorable as they were during the period in which the RAWB was in existence. Wage controls are certainly undesirable, except when absolutely necessary. They are justifiable restrictions on the freedom to determine wages only in periods of grave emergency characterized by serious inflationary pressures that cannot otherwise be checked. As soon as the inflationary danger has subsided to the point where stability can be achieved by other means, direct controls should be removed.