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INCONSISTENCIES OF THE NATIONAL MEDIATION BOARD IN ITS INTERPRETATION AND DEFINITION OF THE TERMS: CRAFT OR CLASS

BY FRANK HEISLER†

I HAVE been asked to clarify the class or craft determinations which are made for purposes of union representation in the air transport industry. Since that is a feat which the National Mediation Board has not been able to accomplish in more than 30 years, I am not certain that I can do it in the next 30 minutes; however, I will try.

A layman must admire the ability of lawyers to fill one volume of hearings, rulings and appeals after another and still have no settled and accepted definition of such a seemingly simple phrase as "craft or class." When Congress enacted the Railway Labor Act it specified that "The majority of any craft or class or employees shall have the right to determine who shall be the representative of the class or craft." Perhaps because Congress is predominately made up of lawyers it did not care to define what is meant by "class or craft." As the National Mediation Board, in one of its reports, has pointed out: "Whether the words are used synonymously or whether a class comprises several crafts or vice versa is not explained." So if Congress will not, and the Board cannot, tell us what they mean by class or craft, who can? Perhaps, we can start by referring to Webster's Dictionary where we find that the appropriate definitions listed under the word *class* are "(1) a group of individuals ranked together as possessing common characteristics or as having the same status; (2) a group of persons having common characteristics, set, kind; (3) a division or grouping based on grade or quality." The definitions of *craft* include "(1) an art or skill; hence an occupation requiring this; a manual art, a trade, business or profession; (2) those engaged in any trade taken collectively."

The more I have studied these standard dictionary definitions the more I realize why Congress did not try to settle upon an exact meaning for the term class or craft. I can also sympathize with the National Mediation Board's attempts to establish rational categories. The beauty of a phrase like "class or craft" is that it tends to become a guarantee of full employment for lawyers. No court or administrative agency can tell exactly what it is; at most it can only attempt to say what does or does not fall within its meaning. In our research library we have volumes of National Mediation Board decisions concerning representation cases involving class or craft. Yet after closely studying all of these decisions we still do not know

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exactly what job categories will be lumped together in the next representation case that arises. Instead of setting up universally predictable criteria for class or craft determinations, the Board has preferred to decide, on a case by case basis, whether any given group of employees has sufficient common characteristics, sufficient similar status and qualities to be lumped together into a single bargaining unit for purposes of union representation.

Interestingly, this continuing problem of determining which categories of airline employees constitute a craft or class presents little difficulty on the railroads. The reason is, of course, that when the National Mediation Board came into existence in 1926 the various railroad unions had long since agreed upon their own craft jurisdictions. On the railroads there were no doubts that machinists belonged to and were represented by the Machinists Union, electricians by the IBEW, sheet metal workers by the Sheet Metal Workers Union—and so forth. The railroad industry predated the National Mediation Board by about 100 years. By the time Congress established the Railway Labor Act the railroads had been organized along traditional, strict craft lines.

The airlines were, however, an entirely different story. When the National Mediation Board was established air travel was not only a novelty, but, in the opinion of much of the public, a rather risky way of traveling. Since at that time airline unions were practically non-existent, the work force had little or no influence on the determination of job classifications. As a result, these classifications were like Topsy because no one planned them. Rather, they just grew with little coherence and even less uniformity. Inevitably, the need and desire for union representation came to the airline industry, as it must in any new, growing, thriving industry. The law of the land clearly stated that airline employees had a right to be represented by bargaining agents of their own choosing. Beginning about 1936 the employees exercised that right in ever-increasing numbers. The problem was in what manner the bargaining units were to be determined. The law said they should be determined according to craft or class, but, unlike the railroads there were no historical patterns to follow. Therefore, the Board, by administrative processes, had to create for the airlines what time and tradition had built for the railroads.

Since I will sound somewhat critical of some of the results that came from these administrative processes let me acknowledge at this point that the Board was not blessed with an easy assignment. It was caught in a cross-current of conflicting claims by unions competing not only with management, but with other unions. It is no secret or disgrace that unions, like individuals and corporate managements, have a tendency to favor their own interests. Therefore, if it comes to a choice between a determination of a class or craft that is administratively logical, or one that the union thinks it can win in a representation election, I will offer one free guess as to which one for which that union will argue and plead—even to the extent of providing masses of supporting evidence—in a hearing before the National Mediation Board.

Before I criticize the Board and make a few appropriate and public-spirited suggestions, let me say that in view of the difficulties it has faced and the conflicting interests it has had to balance, the Board has done an exceedingly fine job of defining the boundaries of class or craft in the air transport industry. Over the years they have developed nine major categories of class or craft. In most instances these categories leave little room for serious disagreement. To paraphrase Gertrude Stein, a pilot is a pilot is a pilot, whether he is flying the friendly skies of United or up up and away with TWA. Therefore pilots and their co-pilots are always granted a bargaining unit of their own. The same is true of the various classes of airborne personnel: The flight engineers, navigators, stewards and stewardesses. Each of these groups has a right to determine first, whether they want union representation; and second, which union will represent them. In exercising this right pilots are not lumped together with stewardesses, nor are flight engineers lumped together with navigators. That is the way it should be. Even though they may have some common characteristics, or may all be on the same plane at the same time, that does not bring them within the definition of class or craft as those terms are defined in Webster's Dictionary.

More significant than job proximity is community of interest. Even though a stewardess is flying on the same plane as a pilot, her community of economic interest, that is, her interest in her wages, hours and working conditions is shared *not* with the pilot but with other stewardesses. Community of interest is properly the key to finding the correct category of class or craft in the air transport industry, and is the key that the Board has used for airborne personnel. The Board has also clearly and adequately defined some of the supporting ground service occupations such as dispatchers and radio and teletype operators. Yet all these taken together are but a small minority of the air transport work force. According to the Federal Aviation Agency's employment figures there are almost four employees on the ground for every one that goes aloft. When one views this majority of air transport employees, those who work on the ground—all those secretaries, stenographers, typists, messengers and mechanical device operators in the front office—all those reservation agents, sales representatives, ticket takers, guards, commissary workers and ground hostesses in the terminals—all those mechanics, inspectors, cargo agents and stockroom clerks in the hangars—all those baggage handlers, fuel service men, scrubmobile operators and crash firemen on the field—the National Mediation Board's definition of class or craft begins to sink into a sea of inconsistency. Over the years people having no relationship to one another as to the nature of work, physical location or economic community of interest have been thrown together and considered one craft or class, thus constituting a single bargaining unit as defined by the Railway Labor Act. Stock clerks have been stuck in with reservation agents, baggage handlers with secretaries in the front office, and ticket agents with ramp service employees.

On the basis of criteria established by case No. R-1706, decided in

January, 1947, the Board has tended to lump all these occupations together in one big indigestible mass bargaining unit known as "clerical, office, stores, fleet and passenger service." There seems to have been a supposition that if employees worked on the ground or if they pushed a pencil in some phase of the job, that was sufficient to make them a single, separate class or craft. In subsequent years the Board has partially and wisely backed away from the ruling made in case No. R-1706 so far as the stock and stores employees are concerned. On a case by case basis the Board has gradually separated these stock and stores employees from office, clerical, fleet and passenger service and has carved out distinct class or craft bargaining units for them on a number of airlines. Little by little it has undermined the findings in R-1706 by granting an exception here and an exclusion there; but has never formally reversed the general principles laid down in that case.

Perhaps the Board originally formulated the "one big happy family" concept of collective bargaining for purposes of administrative simplicity. Undoubtedly it is easier to conduct a single representation election for 1,000 people than to hold two elections—one involving 800 office workers and the other 200 passenger agents. However, Congress did not pass the Railway Labor Act for the Board's convenience. Rather it was passed to give airline employees a fair and reasonable opportunity to be represented by unions of their own choosing. The effect of the Board's reluctance to separate clerical and office employees from fleet and passenger service employees amounts to administrative nullification of a clear legislation purpose.

It is common knowledge that office and clerical workers identify themselves more with management than with unions. With few notable exceptions, secretaries, office and stenographic employees are not organized. Nine times out of ten they vote against the union in any representation election. If they desire to identify their interests with management and are content to have their wages, hours, working conditions and job benefits set unilaterally rather than through the processes of collective bargaining, that is their right. But there is increasing evidence that people outside the front offices of the airlines, that is all the thousands of people who perform fleet and passenger services, are eager for union representation. Yet, when we petition the Board to designate them as a class or craft, and to set up a bargaining unit for them, the Board in effect rules that fleet and passenger services are but one link in a continuous and closely related chain of clerical operations, and accordingly, they must be grouped as a class or craft with typists and stenographers. When a representation election is held under these circumstances the outcome is a foregone conclusion. Even if 75 or 80 percent of the fleet or passenger service people vote for union representation their desires are buried by the votes of the front office people who outnumber them by more than two to one.

While the Board has tended to view the broad and diversified occupations performed by clerical, office, fleet and passenger service employees as

a single and cohesive bargaining unit, it has taken the opposite view with respect to other groups of occupations that are, if anything, even more closely related. Let me give you a specific example. On United Air Lines our union represents a bargaining unit consisting of the class or craft of mechanics and related employees. This unit, covered by a separate agreement, includes such occupations as inspectors, mechanics, apprentice mechanics, flight simulator technicians, ground communication technicians, fuelers, utility employees, seamstresses and cleaning women. This class or craft is basically consistent with the Board's prior determination of the mechanics class or craft with the exception of ground service employees, who are covered by another agreement. On the same airline and under a separate agreement we also represent another bargaining unit known as the ramp and stores employees agreement. This unit includes such occupations as ramp service men, stock clerks, cabin cleaners, cargo men and warehousemen which, with the exception of those employees who perform ground service functions, are a part of the class or craft of clerical, office, fleet and passenger service employees. The people who are covered by these two agreements work even more closely and in more clearly related occupations than do those who are blanketed together in the clerical, office and fleet passenger service group. Not only are they represented by the same union, but their contracts are practically identical. Under any rules of administrative logic they should form such a single class or craft, yet when we requested that the National Mediation Board combine them into one unit, it insisted on maintaining them as two separate and distinct classes or crafts. This action by the Board, in reality, created another class or craft of mechanics and related employees, thus excluding the ground service employees from the voting unit. This is not consistent with the Board's prior determination in Case No. R-1447 made in 1945.

In view of inconsistencies such as these that have multiplied over the years I would suggest that the time is long overdue for the National Mediation Board to thoroughly re-study and up-date craft and class determinations in the airline industry. It should particularly review and reverse the findings and conclusions in Case No. R-1706. It is true that stenographers and reservation agents both perform clerical duties just as pilots and stewardesses fly in the same plane; yet just as the pilots' community of interest in wages, hours and working conditions is with other pilots, the passenger service employees' community of interest is not with secretaries in a remote and far away front office, but with the people with whom they work shoulder to shoulder, day by day. To meet the objectives of the Railway Labor Act, the large, unwieldy and unstructured class or craft now known as clerical, office, stores, fleet and passenger service occupations should be broken into four cohesive occupational groupings for purposes of union representation. The Board can maintain the office and clerical workers as one class or craft if it so desires.

However, the Board should formally acknowledge that it has recognized that stock and stores employees have a clear and identifiable community of

interest and should be a separate class or craft. Then the Board needs to take the next logical step of defining fleet service employees and ground service employees as part of the class or craft of airline mechanics and related employees. The passenger service employees, that is, agents of all categories, should comprise a separate class or craft because they are presently being deprived of their legal rights of representation under the Railway Labor Act by being included in the class or craft of clerical, office, stores, fleet and passenger service employees.

We therefore urge the Board to take another long, close, hard look at the definitions of class and craft that it has established on the basis of decisions that are now more than 20 years old. It is not too late to formulate a rational structure of class and craft determinations for ground employees on the nation's airlines. The Board has done this for the personnel who fly the planes—the pilots, co-pilots, stewardesses, and so forth—and now it is time to do it for the greater number of people on the ground who keep the planes flying.