ASPECTS OF WAGE STABILIZATION BY THE NATIONAL WAR LABOR BOARD

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Recommended Citation

David Haber, ASPECTS OF WAGE STABILIZATION BY THE NATIONAL WAR LABOR BOARD, 43 Mich. L. Rev. 1007 (1945).

Available at: https://repository.law.umich.edu/mlr/vol43/iss6/2

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MOST economists assume that behind an unrestricted war economy lurk the dangers of inflation. Although national income increases, so much of the country's productive effort is devoted to the manufacture of war goods that the number of articles available for civilian consumption necessarily diminishes. This gap between the available supply and the existing purchasing power has the effect of raising prices. Rising wages aggravate this situation because they increase production costs which are then passed on to the consumer in the form of higher prices, and because, by further increasing the purchasing power of the population, they increase the gap between demand and supply. This latter effect is especially true in a war economy, since the extra dollars are not earned in the production of consumer goods.

One of the solutions to the problem of inflation, therefore, seems to be the control of wages by government regulation, designed to prevent their undue rise. And it is not surprising that when the President on April 27, 1942 announced a general economic stabilization program including price control, rationing and taxation, all designed to prevent inflation, he also said "that stabilizing the cost of living will mean that wages in general can and should be kept at existing scales...." He further added that "... all stabilization or adjustment of wages will be settled by the War Labor Board machinery...."

The War Labor Board was originally established by the President, at the time of the United States' entry into the war, for the purpose of achieving peaceful adjustments of labor disputes through arbitration.

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2 88 Cong. Rec. 3690 (1942).
3 Executive Order No. 9017, Jan. 12, 1942, reprinted in 1 WAR LAB. REP. XVII (1942).
Its only contact with wage problems was with those incidental to the labor disputes it handled. While the President's statement that the board would control all wage questions was somewhat premature, since at the time it had no contact with increases resulting from mutual agreement between employer and employee, his message, nevertheless, correctly foreshadowed the very near future. For the largest share of carrying out the policy of stabilizing the country's wages was soon to fall on the National War Labor Board, assisted by twelve regional boards and several industry commissions, which were to act as its subsidiary agencies.4

This came about when on October 2, 1942 an amendment to the Emergency Price Control Act,5 subjecting all wage adjustments to government control, was approved by the President. The implementing Executive Order 9250,6 provided that, generally, wages should not be permitted to rise above their September 15, 1942 level, and gave the War Labor Board jurisdiction over both voluntary and involuntary wage increases. Thus began the current system of governmental control of wages to prevent inflation, the major aspects of which this article will attempt to describe, analyze and evaluate.

I

General Wage Increases

A. Maladjustments

Executive Order 9250 permitted several exceptions to the freezing of wages at their September 15, 1942 level. Under the first exception the board was given authority to allow additional wage raises to correct wage "maladjustments." The concept of maladjustments was intended to alleviate the undue burden that a strict September 15 wage freezing policy would have placed on labor as compared with other groups in society, and particularly, on certain sections of the working population whose wages had especially lagged behind an increasing cost of living. Under the concept of "maladjustments" the board was to permit all increases necessary to preserve labor's standard of living, or those which would readjust the lag of existing wages behind a rising cost of living. The policy was designed to prevent labor

4 See Kaltenborn, Governmental Adjustment of Labor Disputes, 115-117 (1943).
from making undue gains because of its strategically advantageous wartime position, while at the same time assuring the working man that he would not lose all he had gained. Maladjustment increases were further intended to put the more poorly organized or strategically weaker employee groups, whose wages, prior to September 15, 1942, had not kept pace with rising prices, on the same footing with other workers who had been quick to insure themselves against a loss in real wages due to wartime conditions.

I. The Little Steel Formula. To measure the amount of the maladjustment increase that was required in a given instance to bring wages up to the cost of living the board resorted to the wage increment criterion which it had earlier developed in the Little Steel cases, shortly after the President's April 1942 Stabilization Message. The Little Steel formula entitled groups of employees to average an increase in straight-time hourly wage rates up to 15 per cent above those

In re Bethlehem Steel Corp., NWLB Nos. 30, 31, 34, 35, 1 WAR LAB. REP. 325 at 334 (1942). The board granted a 44 cents per 8 hour day, or 5.5 cents per hour increase. 3.2 cents per hour was granted on the basis of the 15 per cent formula. 2.3 cents an hour was awarded because living costs in steel towns had risen more than in the rest of the country, and because the national economic policy had precluded bargaining on the basis of ability to pay. Id. at 327, 337. At the time of the President's Stabilization Message a three-man panel was studying the Little Steel cases. After four and one-half months of study the panel found that the companies were financially able to pay the union's demand for a one dollar a day wage increase, and that up to March 15, steel workers had lost 13.3 per cent of their buying power. Id. at 358-359, 360-361. When the panel's report was received the labor members proposed that the full one dollar wage increase be granted, but made payable in war bonds, or that 44 cents be payable in cash, 56 cents in war bonds. Id. at 362-363. The board, however, rejected this proposal.

Prior to the Little Steel cases the board had refrained from adopting any definite wage policy. In the Aluminum Co. of America case, NWLB No. 66, 1 WAR LAB. REP. 7 (1942), the elements considered were, the trend in the differential of wages between the company's northern and southern plants over the preceding nine years, the cost of production, the type of work, the prevailing wage rate in the area for comparable work and the cost of living. In the cases following the Aluminum Co. of America case, some of these criteria became distinguishable, well-defined wage stabilization policies. Of these, the International Harvester case, NWLB Nos. NDMB 4, 4-A, 89, 1 WAR LAB. REP. 112 (1942) and the Mead Corp. case, NWLB No. 60, 1 WAR LAB. REP. 243 (1942) foreshadowed the Little Steel formula. In the Mead Corp. case the board recognized "the need for adjusting relatively low hourly rates as an offset to the increased cost of living which occurred prior to the formulation of the President's... program," id. at 245. In the International Harvester Co. case the board had suggested that labor must not expect to increase or even maintain the existing level of real wages for the duration of the war. But it was also said that "labor should not be put in an economic strait jacket during the war." 1 WAR LAB. REP. 112 at 120 (1942). This qualification seemed removed by the culmination of the board's cost of living criterion in the Little Steel formula and its subsequent development.
prevailing on January 1, 1941.\(^8\) Fifteen per cent marked the rise in
the cost of living, according to the Bureau of Labor Statistics from
January 1, 1941, to May 1942; and January 1, 1941 was chosen as
the base date, since it was thought to represent the end of a period of
relative economic stability and the beginning of war mobilization inflationary tendencies.\(^9\)

2. The Total Maladjustment Allowance. The board in the \textit{Little Steel} cases had assumed that the 15 per cent allowance could be consistently and continuously applied, because it was expected that, concurrently with wage control, the President's program of price control, rationing and taxation, outlined in his April 1942 message, would be applied so as to prevent a further rise in the cost of living.\(^10\) Nevertheless, the board, at first, permitted increases beyond and denied wage raises up to 15 per cent on the basis of regional cost of living indices\(^11\) and such factors as the rising cost of particular work clothes.\(^12\) Later, however, the board began to feel that to permit increases to vary with actual fluctuating regional costs of living would not only create obvious

\(^8\) "Wage Stabilization Policy of the National War Labor Board," \textit{4 War Lab. Rep.} xxx (1943): "If a group of employees has received increases amounting to 15 per cent in their average straight-time rates over the level prevailing on Jan. 1, 1941, the board will not grant further increases as a correction for maladjustments."


\(^10\) Id. 336. See \textit{S. Hearings on S.J. Res. 161}, 77th Cong., 2d sess., Sept. 15, 1942 (Committee on Banking and Currency). It became apparent early, however, that rising prices were in fact not at an end. \textit{55 Monthly Lab. Rev.} 760, 856, 860 (1942); NWLB No. 13-280-D, \textit{10 War Lab. Rep.} 237 at 240 (1943); see also notes 161, 162 and 163 infra.


administrative obstacles, in requiring, for example, renewed collection of cost of living data in each individual case, but also serve to further inflation by providing an impetus for resumed advances in living costs which in turn would result in higher wages. Consequently, in the "Big Four" Meat Packing cases, the board indicated strongly that the Little Steel formula was not a true cost of living criterion, and declared flatly that the sum of wage increases since January 1, 1941, or the total maladjustment allowance, could not exceed 15 per cent. Actual cost of living advances as they affected particular employee groups were henceforth to be disregarded, and except for modifications subsequently explained, the formula thus interpreted, instead of being in keeping with a policy of preserving labor's standard of living, began to impose, that which was originally intended to be avoided, a wage freeze, though this time at a level somewhat higher than that prevailing on September 15, 1942. Today the total maladjustment allowance is a mere arbitrary permissible maximum sum of wage rate increases, which is to be allowed over and above the wage rate level prevailing on January 1, 1941, and which only occasionally will permit a wage rate above that prevailing on September 15, 1942.

3. The Net Maladjustment Allowance. The board's method of determining the net maladjustment allowance illustrates a similar departure from the basic policies behind the Little Steel formula. While the total maladjustment allowance constitutes the sum of all permissible increases subsequent to January 1, 1941, the net maladjustment allowance measures the amount of increase that may be awarded a particular group of employees at a given time. This amount is de-

13 See McNatt, "Toward a National Wartime Labor Policy" 51 J. Poli. Econ. 1, 5 (1943). Mr. McNatt suggests that the application of a true cost of living formula "would not solve any problems, it would only aggravate them."


15 The general tenor of the opinion indicates that the Little Steel formula does not provide for strict correlation of cost of living and straight-time hourly rates. In part this is justified on the ground that "take-home" wages have increased sufficiently and in part on the hope "that such a stabilization of wages will be accompanied by a stabilization of prices"; id. at 401, to which the board clung despite the fact that the national cost of living had risen approximately 19 per cent in Feb. 1943, as compared with 15 per cent in April 1942, since January 1941.

16 Such was the view expressed in an opinion prior to the "Big Four" Meat Packing cases, In re Hotel Employer's Assn. of San Francisco, NWLB No. 21, 5 WAR LAB. REP. 141 (1942). Subsequent to the "Big Four" Meat Packing cases it was expressly stated that the Little Steel formula "does not pretend to compensate wage earners for the entire rise in the cost of living since January 1941." In re Five Pittsburgh Department Stores, NWLB No. 699 (2827-D), 9 WAR LAB. REP. 204 at 215 (1943).
terminated by offsetting against the total maladjustment allowance wage increases subsequent to January 1, 1941 but prior to the date of a currently contemplated wage raise.17 However, all prior increases have not been offset by the board. Considerations of administrative feasibility and a policy of minimum infringement of established wage patterns demanded that certain types of increases be exempted from the Little Steel limit, and such wage raises have, accordingly, not been offset against the total maladjustment allowance.18 These exemptions have been established by the board in terms of four important criteria of distinction. According to the first of these criteria, only wage increases reflected as increments in average straight-time hourly wage rates may be offset against the total maladjustment allowance.19 And the second criterion permits an offset of general wage increases, only; individual increments, even where they result in advances in average straight-time hourly wage rates remain immune from the Little Steel limit.

17 In computing the maladjustment allowance the employer calculates (a) the average straight-time hourly rate of pay, (b) an amount equal to 15 per cent of the figure determined in (a) above; (c) the amount to be offset against this maladjustment allowance as “general increases” made subsequent to January 1, 1941 to all employees or groups in the unit; (d) the difference remaining is the maximum permissible wage increment. APPLICATION OF THE LITTLE STEEL FORMULA (WLB Pamphlet, 1943), § D-4 reprinted in 11 WAR LAB. REP. XXX at XXXIV (1944).


19 “The cost-of-living adjustment under the War Labor Board’s maladjustment policy is determined not as a percentage of average weekly wages but as a percentage of average straight-time hourly rates . . . .” Letter from the board in connection with In re Gimbel Brothers, Inc., NWLB Nos. II-1136, 7 WAR LAB. REP. 473 (1943). This case seems to have settled the issue. Similar statements may be found in earlier cases. In re Continental Rubber Works, NWLB No. 402, 6 WAR LAB. REP. 372 at 376 (1943); In re J. I. Case Co., NWLB No. 130, 6 WAR LAB. REP. 60 at 61 (1942); In re E. H. Sheldon Co., NWLB No. 301, 3 WAR LAB. REP. 469 at 474 (1942). However, in cases involving employees whose earnings consist largely of commissions the board has compared earnings where these have increased without appreciable change in effort. In re Metropolitan Life Insurance Co., NWLB No. 111-5304-D, Region III, 15 WAR LAB. REP. 593 (1944).
formula. According to the third criterion of distinction the board will not diminish the total maladjustment allowance by subtracting therefrom prior increases granted in lieu of privileges, such as vacations, or to bring wages back to past levels, as in the case of wage reductions brought about by a company's poor financial condition. Finally, the board has in some instances refused to offset increases previously granted to eliminate "inequalities." The concept of "inequalities" will later be discussed in detail. Suffice it to say, at this point, that this concept permitted the board, in addition to increases granted under the Little Steel formula, to allow wage raises necessary to equalize wages paid to groups of workers doing similar work, and to maintain wage differentials between employees doing dissimilar work.

It is self-evident that these exemptions marked a departure from the basic policies of the Little Steel formula. For example, wages not reflected as increases in average straight-time hourly earnings are just as inflationary as those which are so reflected. Their exemption is a clear departure from the anti-inflation policy of the formula. The deviation from the policy of preserving labor's standard of living is equally clear. For the extent to which a wage raise goes towards meeting advancing living costs certainly does not depend on its resulting in an increase in average straight-time hourly earnings.

While this departure from basic policies is obvious, somewhat less obvious but far more important is the fact that these exemptions, though to some extent motivated by a desire to facilitate administration by thus eliminating complicating factors, were to a large extent necessitated by requirements of a wartime wage economy which the board was unable to ignore. Thus, under its first criterion of distinction, the board has classified as increases not reflected as average straight-time hourly wage rates, night-shift bonus wages and increments due to payments of overtime wages not previously paid as well as to liberalization of vacations with pay, and holiday pay plans.

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20 "... increases [under the Little Steel formula] ... cannot be based on the actual wage, including overtime, received by the employees but must be based upon the hourly wage rates received ..." In re E. H. Sheldon Co., NLWB No. 301, 3 WAR LAB. REP. 469 at 474 (1943); APPLICATION OF THE LITTLE STEEL FORMULA (NLWB Pamphlet, 1943), § D-2(e) reprinted in 11 WAR LAB. REP. XXX at XXXIII (1944). Labor objections to the Little Steel formula were partly appeased by the issuance on February 9, 1943 of Executive Order 9301, 8 Fed. Reg. 1825 (1943), which imposed a 48 hour week in critical labor shortage areas, while continuing the requirement of time and one-half for overtime. The Order, however, took only very gradual effect.

21 APPLICATION OF THE LITTLE STEEL FORMULA (NLWB Pamphlet, 1943), § D-2(a), (b) reprinted in 11 WAR LAB. REP. XXX at XXXIII (1944). As to the non-applicability of the Little Steel formula and consequent non-offsettability of bonus
Increased earnings of piece work employees where there had been no determinable change in base rates have also been included in this classification.\textsuperscript{22} These non-offsettable increments are clearly those which go to make up a large part of the incentive and privilege elements of existing wage patterns. Under a wartime wage economy, in which the bargaining power and independence achieved by labor by virtue of its relative scarcity plays an important rôle, interference with these elements of the customary wage pattern might have had disastrous effects. Certainly, the board's anti-inflation policy had to yield. The degree to which these wage factors constitute part of the inflationary rise in wage payments will be more fully noted in the conclusion of this article. The board, however, has not deviated beyond the extent required by broader economic considerations; for where privilege and incentive elements were not involved, increases have been offset, even where they had not been reflected as advances in average straight-time hourly wage rates. For example, where general wage increases given to workers in various job classifications have not resulted in an increase in average straight-time hourly wage rates, merely because a large labor turnover had substituted low-paid learners for highly paid employees, such wage raises have been classified as offsettable by the board.\textsuperscript{23}

\textsuperscript{22} In re Continental Rubber Works, NWLB No. 402, 6 War Lab. Rep. 372 (1943). Where there has been a transition from a piecework to day-work system of wage payments during a concern's conversion to war work, application of the formula has been held impracticable. In re Bendix Home Appliances, Inc., NWLB No. 111-978-D, Region VI, 12 War Lab. Rep. 175 (1944).

\textsuperscript{23} Application of the Little Steel Formula (WLB Pamphlet, 1943), § D-1(d) reprinted 11 War Lab. Rep. XXXIII (1944). Similarly, such increases are offset when given to these workers without actual changes in job classification payments see id. at § D-2 (i), p. XXXIV; In re Washburn Wire Co., NWLB No. 111-298-C, 12 War Lab. Rep. 124 (1943). See section on Methods of Wage Payments, infra at 1049-1053. But see description of a case involving Seattle-Photo Engravers Association where liberal vacation plan was approved in lieu of increase under Little Steel formula. 7 W. H. Rep. 1072 (1944).

As to night-shift premiums for rotating shifts, the board earlier required demonstration that the wage rate of rotating shift workers did not already include compensation for the onerousness of night work. In re Globe Steel Tubes Co., NWLB No. 111-849-D, 14 War Lab. Rep. 83 (1944). But strong pressure by the labor unions for upward revision of the Little Steel formula forced the board to liberalize this policy. In re Basic Steel Cos., NWLB No. 111-6230-D (14-1), 19 War Lab. Rep. 568 (1945); In re Bird & Sons, Inc., NWLB No. 111-8087-D, Region I, 21 War Lab. Rep. 417 (1945); In re Atlas Powder Co., NWLB No. 111-2204-D (7-D-297), Region VII, 8 W. H. Rep. 105 (1944). This permitted an obvious loophole in the formula. But these increases may not raise production costs and are subject to approval of the Economic Stabilization Director, unless they do not exceed 4 cents per hour for the second shift and 8 cents for the third shift. Directive to NWLB by Office of Economic Stabilization, March 8, 1945, 8 W. H. Rep. 265 (1945).
Properly understood, therefore, the board’s first criterion of distinction does not discriminate between wage increases reflected as increments in average straight-time hourly wage rates and those not so reflected, but rather differentiates between increases granted as a result of privilege and incentive elements in established wage patterns and other increments. As such, the principle, rather than appearing as the arbitrary whim of an administrative agency, is seen as a deviation from fundamental policy necessitated by economic considerations of greater importance.

Similarly, under the board’s second criterion of distinction, only increases that make up part of the incentive and promotion pattern have been classified as individual and non-offsettable. Thus, bona fide merit increases based on an employee’s individual productivity, automatic increases under a progression schedule based on training and experience or advanced wage rates due to promotions, upgradings, and adjustments in piece and individual rates following a company’s job re-evaluation,24 have not been offset.25 But mere sporadic increases that did not involve incentive and promotion elements have not been
classified as individual and non-offsettable. Wage raises which applied to more than 10 per cent of the unit's labor force,\(^{26}\) for example, and, since the *West Coast Airframe* case,\(^ {27}\) wage increases affecting all employees on the payroll as of specified dates, which had been granted without resulting in greater productivity, and had culminated in advanced unit labor costs, have been offset.\(^ {28}\)

As to the third criterion of distinction, wage rate increases such as those granted to compensate for the elimination of general night shift and production bonuses have been classified as non-offsettable.\(^ {29}\) This, however, does not represent a deviation from the board's anti-inflation policy since such increases do not mean increased take-home pay but

\(^{26}\) In re The Great Atlantic and Pacific Tea Co., Atlantic Division, NLWLB No. I11-4043-D, Region III, 12 War Lab. Rep. 544 (1943); *Application of the Little Steel Formula* (WLB Pamphlet, 1943), § D-1(a), reprinted in 11 War Lab. Rep. XXX at XXXII (1944). This is not true of individual merit increases, promotions, etc., unless such have been given in "clusters" over a very short period of time. In order to calculate the amount to be offset because of an increase to a percentage of workers (a) take the number of employees directly affected by the increase as a percentage of the total number in the unit at the time, (b) the amount of the increase is then multiplied by the percentage found in (a). Thus, where a ten-cent increase is given to 500 workers out of a 1000 in the plant, the amount to be offset would be five-cent increase in straight-time hourly earnings (50 per cent of 10 cents). Id. at XXXIII.


\(^{28}\) Most of these increases were "across the board" increments to each factory worker in the employ of a particular company. Each worker had received a minimum pay raise of 10 cents an hour and the average increase in most plants was about 12½ cents an hour. The average earning increase over Jan. 1, 1941 was 18 per cent. But this increase was not due to increments per job classification which is the usual form of general wage increases. Mr. Morse's dissenting opinion contended that because of the expansion of employment, the change in job classification and production methods the Little Steel formula was inapplicable. Id. at 603, 611. The labor members wrote a separate dissenting opinion. Id. at 617. Labor reacted unfavorably: The A.F. of L. petitioned the board for a rehearing of the "Big Four" Meat Packing and West Coast Airframe cases. In NWLB Press Release B-496 (1943), C.I.O. President Philip Murray stated that these cases were in "direct violation of the national wage stabilization policy of the Government." NWLB Press Release B-497 (1943).

\(^{29}\) In re Denver Bakery Cos., NLWLB No. 111-1772-D, 14 War Lab. Rep. 252 (1944); *Application of the Little Steel Formula* (WLB Pamphlet, 1943), § D-2(h) reprinted in 11 War Lab. Rep. XXX at XXIV (1944). Cf. In re American Tool Works Co., 11 War Lab. Rep. 651 (1943); Interpretation of General Order No. 10, Question no. 14 (1942) reprinted in 1943 W. H. Man. 541 at 543. Except where such bonus was previously applicable only to some of the workers in the maladjustment unit. 11 War Lab. Rep. XXX at XXXIII (1944). But a prior increase in lieu of a merit increase has not been offset, and the prior increase was so classified on the dubious premise that it had not been uniformly distributed. This leaves the road open for flagrant evasion. In re Ingersoll Rand Co., NLWLB No. 111-3152-D, 7 W.H. Rep. 1077 (1944).
merely the substitution of one wage payment system for another. On the other hand, the board has in many instances deviated from its anti-inflation policy. For example, wage increases following an earlier reduction of pay have generally not been offset. Similarly, increments given experienced workers to compensate for loss of earnings under a group bonus system, resulting from a lowered group skill level due to the addition of inexperienced workers, have not been classified as offsettable. These exemptions were probably prompted by the board’s desire to avoid undue worker-employer friction, which might cause work stoppages and thus interfere with the production effort. For when war-prosperity brings back on its feet a company that previously had to reduce wages because of its poor financial condition, the worker feels at least entitled to a restoration of his wage cut. To follow a different policy would be straining the no-strike pledge too much.

But once more, the board’s policy has not been one of indiscriminate immunization from the Little Steel formula of all wage increases designed to save workers from possible loss of income. In the Gimbel Brothers case, for example, a reduction in the number of hours worked without a corresponding pay reduction was classified as an offsettable pay increase. The case has not been followed, however, where workers in comparable jobs had been working shorter hours for more pay and where the reduction in hours was without consent of the employees.

30 In re Radiant Glass Co., NWLB No. VII-D-93 (111-741-AR), Region VII, 10 WAR LAB. REP. 112 (1943); In re L. B. Lockwood Co., NWLB No. 5-HO-101 (3100-CS-A), Region V, 8 WAR LAB. REP. 432 (1942). Contra, In re Semler Co., NWLB No. 3920, 12 WAR LAB. REP. 311 (1943) affd. NWLB No. 3920-D, Region III, 10 WAR LAB. REP. 231 (1943); In re Mallory Hat Co., NWLB No. WA-309, 5 WAR LAB. REP. 310 (1943). These cases represent wage raises following a reduction of wages prior to January 1, 1941. Of course the board will not offset wage raises following a reduction subsequent to that date. APPLICATION OF THE LITTLE STEEL FORMULA (WLB Pamphlet, 1943), § D-2(f), reprinted in 11 WAR LAB REP. XXX, XXXIII-XXXIV (1944).

31 Id. at § D-2(g), p. XXXIV.

32 In re Gimbel Brothers, Inc., NWLB Nos. II-1136, 7 WAR LAB. REP. 473 (1943). Other cases are: In re Ludwig Baumann and Co., NWLB No. 111-4466-HO [2-HO-667], Region II, 15 WAR LAB. REP. 291 (1944); In re United Cigar-Whelan Stores Corp., NWLB No. 2-D-74 (111-592-D), Region II, 9 WAR LAB. REP. 393 (1943).

33 In re Sloss-Sheffield Steel and Iron Co., NWLB No. 4288-D, 12 WAR LAB. REP. 435 (1943); In re The Great Atlantic and Pacific Tea Co., NWLB No. 111-4043-D, Region III, 12 WAR LAB. REP. 544 (1943); cf. In re United Cigar-Whelan Stores Corp., NWLB No. 2-D-74 (111-592-D), Region II, 9 WAR LAB. REP. 393 (1943). Since the adoption of going wage brackets, which shall later be explained, the reduction of working hours has resulted in upward revision of wage rates within
for the absence of employee consent might well be the cause of a labor dispute. And the fact that workers doing comparable work in other establishments are employed under more favorable conditions, indicates the possibility of workers leaving their present jobs for those more lucrative offered elsewhere, were the board to interfere with the correction of this wage "inequality." As shall later be pointed out the disruptive effect of labor migration is considerable and the board has consequently constantly sought to ward off its occurrence. Indeed, the board's fourth criterion under which wage increases designed to maintain differentials between workers doing dissimilar work, as between first and second class mechanics, and to equalize wage rates of workers doing similar work, have not been offset, finds its basis, as shall later be seen, in the same desire to prevent labor migration and turnover.

While the board's classification of certain increases as nonoffsettable seems thus to represent an economically essential deviation from the board's fundamental policies, the board has hesitated to admit any deviation at all. Its own explanation is that its failure to offset some of the aforementioned increases is based on the principle of comparing only changes in rates paid for the same job content. In other words, whenever a worker's productivity increases, his wages have been permitted to increase also. Such an increase, the board claims, is not inflationary.

But the board's explanation is inadequate for two reasons. First, while the "same job content" principle might conceivably explain exceptions with respect to increases which depend on increased productivity, many of the other exceptions are not that easily rationalized. For example, increased earnings due to such factors as liberalized vacation pay plans, bear no direct relation to increased productivity and seem to represent complete disregard for the policy of combatting inflation. Second, the "same job content" principle fails to represent complete adherence to anti-inflation policy; for, while this principle in keeping wages in line with increased productivity prevents increased

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Note that this practice does not merely permit an upward adjustment of wage rates but also increases take-home pay by added amounts received for overtime. It thus represents a double barreled deviation from anti-inflation policy.

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Application of the Little Steel Formula (WLB Pamphlet, 1943), § D-1(a), reprinted in 11 WAR LAB. REP. XXX, XXXII (1944).
labor costs, it prevents inflation only in so far as such costs result in advancing prices. But the assumed inflationary threat of increased consumer purchasing power through increments in take-home wages, where increased productivity does not result in more consumer goods is entirely disregarded. Only in one instance is the “same job content” principle entirely compatible with a thorough anti-inflation policy, i.e. where increments in average hourly wage rates are due to a true change in the composition of the labor force consisting of a substitution of skilled workers for common labor, the skilled workers having received higher wages at their previous place of employment. This is the only instance where the nation’s total take-home pay is not increased by the wage raise. The board’s explanation of the many exceptions it has carried into the Little Steel formula consequently fails to meet the challenge of those who have chastized it for deviating too far from its original objective. But the economic factors, heretofore described, clearly emphasize the fact that complete adherence to the letter and fundamentals of the formula would have been impossible.

4. The Unit of Calculation. As has earlier been pointed out the total maladjustment allowance is determined by adding 15 per cent of the wage level prevailing on January 1, 1941 to such wage level. In the case of each proposed wage increase, moreover, the board must further determine whether the wage level used as a base for measurement should be that of a single plant, a company or any other unit of calculation. In making this determination, the board had to adopt arbitrary and traditional standards. Thus, the board has based its calculation on units which varied from occupational groups as small as five foremen and collective bargaining units to entire plants, com-

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86 Indeed, if the only inflationary threat were a decrease of production per wages paid, there would have been no necessity for anti-inflationary wage control at the beginning of the war. For labor productivity in war industry increased while unit labor costs decreased. This man hour output in 1940 increased 8 per cent over that in 1939, while unit labor cost decreased 3½ per cent. “Labor Productivity and Labor Costs 1939-41,” 51 U.S. MONTHLY LAB. REV. 388-391 (1940).

87 The board has also argued that individual wage increases and others which have not been offset have not affected many workers in the plant or company. That to penalize the majority of employees because of wage raises received by a small number would be unfair. Be that as it may, this argument provides no answer from anti-inflation perspective.

88 In re St. Louis Public Service Co., NWLB No. 111-488-D, Region VII, 10 WAR. LAB. REP. 227 (1943); In re National Rubber Machinery Co., NWLB No. 111-846-D (V-D-95), Region V, 12 WAR. LAB. REP. 513 (1943) (applied to unit of five employees).

89 See notes 46, 47, infra.

40 See note 45, infra; APPLICATION OF THE LITTLE STEEL FORMULA (WLB
panies, employer associations and industries. Which of these units is chosen in a given instance is important from the viewpoint of preventing inflation. For upon request by a single plant, whose January 1941 wage level is higher and whose offsettable increases since that date are smaller in amount than those of the other plants in the company, the net maladjustment allowance will be greater if the single plant rather than the entire company is chosen as the calculation unit.

From an anti-inflationary perspective it would seem, therefore, that the unit, which results in a smaller increase would always be chosen by the board. But the reported cases do not reveal the application of so consistent an anti-inflationary policy. Nor do they reveal that the policy of preventing inflation has merely been de-emphasized in favor of the second policy behind the Little Steel formula of preserving labor's standard of living. The board's action simply indicates that both


42 APPLICATION OF THE LITTLE STEEL FORMULA (WLB Pamphlet, 1943), § E-4 reprinted in 11 War Lab. Rep. XXX at XXXV (1944). Employers associations may be considered a unit where (1) the association members and the union agree to such application, (2) the association extends over only a single labor market locality, (3) there is uniformity of wage rates and changes in such rates among the members, (4) all or nearly all the employers in the industry area belong to the association. Ibid. See for example In re New York Employing Printers Assn., Inc., NWLB No. 111-90-R, 9 War Lab. Rep. 469 (1943).

43 In re Plymouth Rubber Co., NWLB No. 111-2703-HO, 16 War Lab. Rep. 546 (1944); In re Pioneer Rubber Mills, NWLB No. 111-377-C, 14 War Lab. Rep. 745 (1944); In re Acme Rubber Manufacturing Co., NWLB No. 4197-D, 12 War Lab. Rep. 192 (1943), and similar cases involving the rubber industry, decided pursuant to In re United States Rubber Co., NWLB Nos. 2307-D, 190, 2862-D, 184, 8 War Lab. Rep. 537 (1943) (applied an industry basis where plants were the highest paying segments of the industry and average hourly rates ranged from $1.15 to $1.25 compared to average rates of $0.70 or less in other plants of the industry).

of the above considerations have yielded to considerations of administr­
trative expediency, and fear of the consequences of disrupting estab­
lished wage institutions, has also been a powerful determining factor. 
Thus, the board has generally chosen calculation units on the basis of 
established collective bargaining relationships of groups of employees 
with the employer, or other traditional wage rate relationships of 
industry. The usual unit has, therefore, been the plant since it most 
frequently constitutes the established wage pattern center. Where a 
collective bargaining unit smaller than a plant, or a company consisting 
of many plants satisfied the above requirement, it has been chosen as 
the calculation unit. For example, where the employees of a group 
of department stores were represented by several unions, some of which 
bargained for employees of only some stores, while the other unions 
represented workers in all the establishments, the Little Steel formula 
was applied on the basis of the individual bargaining unit. In other 
instances, the calculation unit has been chosen because the workers 
within it were not touched by important changes that affected workers 
who could have been included in a larger unit. This also serves to 
simplify calculation of the net allowance. Thus the net allowance has

45 APPLICATION OF THE LITTLE STEEL FORMULA (WLB Pamphlet, 1943), § E, 
reprinted in 11 WAR LAB. REP. XXX at XXXIV (1944). Cf. In re Pittsburgh Plate 
Glass Co., 11 WAR LAB. REP. 592 (1944).

46 In re Mountain States Telephone & Telegraph Co., NWLB No. 111-4732-D 
(9-D-98), Region IX, 15 WAR LAB. REP. 696 (1944), affirmed NWLB No. 111-
4732-D, 19 WAR LAB. REP. 459 (1944); In re Dredge Owners Assn., NWLB No. 
111-1018-D, Region XI, 14 WAR LAB. REP. 399 (1944), reaffirming 9 WAR LAB. 
REP. 630 (1943). See note 47, infra. A unit smaller than a plant whether unionized 
or not must have been recognized by the employer in previous wage dealings. APPLI­
CATION OF THE LITTLE STEEL FORMULA (WLB Pamphlet, 1943), §§ E(r), (8), re­
printed in 11 WAR LAB. REP. XXX at XXXIV, XXXV (1944). Compare dis­
cussion p. 1022, infra.

"If application of the Little Steel formula is to be on a company-wide basis as 
distinguished from a plant basis it should usually be made for plants under one owners­
ship in the same community or area. This should be permitted if there is such a close­
knit wage relationship among the plants that for the sake of stable labor relations the 
adjustment should be [so] based...." APPLICATION OF THE LITTLE STEEL FOR­
MULA (WLB Pamphlet, 1943), § E (3), reprinted in 11 WAR LAB. REP. XXX at 
XXXV (1944). Cf. In re Denver Ice Cos., NWLB No. 111-5037-D (9-D-100), 
Region IX, 16 WAR LAB. REP. 263 (1944).

47 In re Five Pittsburgh Department Stores, NWLB No. 699 (2827-D), 9 WAR 
LAB. REP. 204 (1943). Compare In re Denver Ice Cos., NWLB No. 111-5037-D 
(9-D-100) Region IX, 16 WAR LAB. REP. 263 (1944). See also In re Dredge 
Owners' Assn., NWLB No. 111-1018-D, 13 WAR LAB. REP. 480 (1944) (group 
represented by different unions treated as single unit, since unions have customarily
negotiated a joint contract with equal wage increases provided for all employees).
been calculated on the basis of an occupational group which had remained unaffected by plant expansion. Still another factor in choosing the calculation unit has once again been the board's attempt to maintain established job classification differentials or to equalize differentials which are not usually part of the wage pattern, in order to prevent labor migration and turnover. Thus where application of the formula on a collective bargaining unit basis, especially in the case of craft workers, would have caused a disruption of existing inter-occupational differentials within a plant, a company-wide unit has been employed.

The various considerations that influence the board in choosing the proper unit of calculation are best illustrated by a comparison of the Pacific Telegraph & Telephone Company case with the Mountain States Telegraph & Telephone Company case. In the former case application of the Little Steel formula to the particular bargaining unit for which an increase was sought, would have benefited that bargaining unit above other employees of the telephone system. Moreover, the company had made wartime increases on a company-wide basis. On the other hand the Mountain States Company had maintained an unbroken record of wage adjustments on a bargaining unit basis, and application on a bargaining unit basis would not put these employees ahead of others. In the Pacific case the formula was applied on a company wide basis and in the Mountain case the formula was applied on a bargaining unit basis, though in both cases the smaller increase would have resulted from a company wide application. The board's anti-inflation policy would, thus, have been served to a greater extent by applying the formula on a company wide basis in the Moun-

52 But cf. dissenting opinion, NWLB No. 3047-D (918), 13 War Lab. Rep. 611 at 617, 626 (1944). In re National Assn. of Manufacturers of Pressed and Blown Glassware, NWLB No. 111-4919-D, 18 War Lab. Rep. 53 (1944). It is apparently not important that the bargaining is done separately, or else the bargaining unit would be the usual unit of calculation. The important consideration is how wide a group of workers did the final wage agreement in past practice cover. Where industry-wide agreements have been usual, an industry-wide calculation unit will be used. Id. at 59.
tain case, as well. But since both the prior wage practice, and consideration of the possibility of creating "inequalities," pointed to a bargaining unit application, this was finally directed.

One cannot escape the final conclusion, therefore, that in determining the unit of calculation, the board has again deviated from the basic policies behind the Little Steel formula. And this again seems to have been almost inevitable and determined by more important economic and administrative factors. To complete this picture of step by step divergence from original objectives it remains to examine but a single further phase of the formula's application.

5. Distribution of the Allowance. Once the net maladjustment allowance is determined, it has to be distributed in the form of an increase in money wages to particular workers. From the point of view of preserving labor's standard of living it would seem that the increase should be so distributed that workers who had received larger increases since January 1, 1941, thus meeting increased living costs to a greater extent, would receive a smaller share of the net allowance than those who had received lesser increases. The board, however, has once again refrained from following a fixed policy and has favored any distribution agreed to by both labor and management which did not needlessly disturb the existing wage pattern.

Determination of the distribution of the net maladjustment allowance has, therefore, frequently been relegated to employer-employee negotiations. As a result of such negotiations the net allowance has been applied not only to wages of the individual workers themselves, but also so as to effect a flat or percentage increase in piece or hourly rates to workers in one or more job classifications. Where these have

This deviation is by no means complete—anti-inflation policy still seems determinative in many cases. In re Denver Ice Cos., NWLB No. 111-5037-D (9-D-100), Region IX, 16 War Lab. Rep. 263 (1944) (six ice and creamery companies which had been bargaining with one union not considered a unit. Result: employees of only two plants are awarded increases); In re New England Telephone & Telegraph Co., NWLB No. 111-5965-D, Region I, 16 War Lab. Rep. 434 (1944) (all departments combined into a unit despite fact that the union had bargained for employees in one department. Result: 3½ cents granted instead of 9 cents permissible under department application).

See note 58, infra.


been classifications of rate range jobs the allowance has been applied to the starting rates, the minimum rates or the maximum rates. Determination of issues arising from these variables, such as, whether the distribution should be on a flat or percentage basis, or what workers should receive the larger portion of the increase, should, according to the board, be made in such a way as to effect a final distribution that tends to eliminate deviational and preserve institutional wage differentials. With the establishment of the board's sound and tested wage brackets, subsequently discussed, the board has required that the distribution result in a wage pattern in keeping with such brackets.

Both this requirement based on a policy of preserving existing wage patterns, as well as the tendency to relegate determination of distribution issues to negotiation, in order to avoid unnecessary labor disputes, seems to have encroached on the formula's original purpose of preserving labor's standard of living. It might be contended, that where a deviational differential had been brought about by wage increments to particular workers subsequent to January 1, 1941, a distribution designed to eliminate such differential would also tend to give a greater portion of the allowance to those employees who have received lesser increases in the past, and that, therefore, there is no contradiction between preserving labor's standard of living, on the one hand, and upholding institutional wage patterns on the other. The contradiction between these two policies is apparent, however, where the deviational differential had arisen prior to January 1, 1941, and there remains, con-


But the board prohibits distribution of the increase in accordance with varying lengths of service. Application of the Little Steel Formula, (WLB Pamphlet, 1943), § F-3, reprinted in 11 War Lab. Rep. XXX at XXXV (1944). Nor may varying amounts of weekly take-home wages be compensated for by uneven distribution. Where the straight-time rate is the same the increase has to be the same. Id. at § F-2, p. XXXV.


Application of the Little Steel Formula (WLB Pamphlet, 1943), § F-1, reprinted in 11 War Lab. Rep. XXX at XXXV (1944). The board frequently asks the parties to negotiate the distribution within certain limits. In re General Steel Castings Corp., NWLB No. 524, 6 War Lab. Rep. 225 (1943); In re Weatherhead Co., NWLB No. 217, 6 War Lab. Rep. 184 (1943); In re Western Union Telegraph Co., NWLB No. 388, 6 War Lab. Rep. 133 (1943); In re Fulton County Tanners Negotiating Committee, NWLB No. 83, 4 War Lab. Rep. 87 (1942). In order to achieve equalization the method of tapering increases so that a larger portion of the increase is paid lower paid employees is frequently used. See pp. 1036, infra.

See pp. 1035-1039, infra.
sequently, no cost of living basis for granting lower paid workers a
larger portion of the increase. Moreover, the board has ruled that it is
undesirable to compensate for varying amounts of take-home pay, due to
such factors as variations in the number of hours worked by different
employees, by an uneven distribution of the net allowance. Equalization
of take-home pay would frequently be most desirable from the point of
view of preserving labor's standard of living. For, as earlier indicated,
the relation of earnings to the cost of living serves as the only actual
measurement of a loss in living standards. From the point of view of
preserving institutional wage patterns, on the other hand, distribution
designed to equalize earnings would be undesirable, since it would dis­
turb existing wage rate differentials. The contradiction between the
policies of preserving labor's standard of living and maintaining institu­
tional wage patterns with respect to distributing the net allowance
is thus apparent. But despite this contradiction, the board has once
again attached greater weight to the latter policy.

6. Conclusion. While the Little Steel formula constituted an ex­
ception to the maintenance of wages at September 15, 1942 levels, its
original intention was to limit this exception to those increases necessary
to maintain labor's standard of living. Thus it was to fulfill two func­
tions; to bring wages up to the cost of living, and to prevent infla­
tionary increases beyond that point. In its application, however, both
of these functions have been limited by factors of administrative
expediency and elements of a wartime wage economy. This has created
a situation where some workers' standard of living is preserved and
that of others is impaired, and where wages of some workers are limited
so as not to become inflationary and those of others are not. Moreover,
it can not be said that on the whole the formula has served to prevent
inflation. On the other hand it cannot be denied that other elements in
a wage economy could not be ignored. Some of these factors, as will
be seen, are so important that they constitute exceptions to September
15, 1942 wage freezing, beyond their effect on the operation of the
Little Steel formula. As such they have made wage stabilization even
less effective as a means of inflation control than is already apparent
to the reader.

6. Inequalities

As has already been pointed out, one factor of the wage economy
that has caused the board to de-emphasize anti-inflationary policy
consisted of the need for maintaining sound differentials between wages

60 Application of the Little Steel Formula (WLB Pamphlet, 1943),
§ F-2, reprinted in 11 War Lab. Rep. XXX at XXXV.
paid to employees performing different work and for diminishing undue differentials between wages paid to those doing like work. It is obvious that if a first class mechanic who has usually received, feels entitled to, or could receive wages equal to those paid first class mechanics in neighboring plants producing similar articles were suddenly to find himself receiving a smaller wage by comparison, he would seek work in the neighboring plant and in a period of wartime scarcity would probably find it easy to shift his employment. A group of workers doing the same might easily cause serious disruption of production; and if shift of employment cannot be easily accomplished, low morale and mass quitting of jobs is another likely consequence. It is important, therefore, to equalize wages of workers doing substantially similar work as far as possible. Similarly, the first class mechanic who has received or should receive 20 cents more than the second class mechanic in his or other plants, will not welcome a mere 10 cent differential in wages caused by an increase in the second class mechanic's wage only. Consequently, the maintenance of proper differentials between wages paid workers whose jobs are differently classified is an important economic caveat in any wage stabilization program.

As a result, the board, since its inception, has, in applying the second specific exception to the September 15 wage stabilization order, granted general increases to maintain wage rate relationships. These increases became known as those necessary to correct "inequalities." Although these increases are now restricted because of their tendency to become unduly inflationary, a study of the history of the development of the board's "inequalities" criterion reveals that in substance the basic policy still obtains.

1. Development Before April 1943. At first, the board granted increases to correct undue or inadequate differentials between workers within a plant, and raised the wage level of underpaid employees to the average or maximum rates paid wage earners for comparable jobs within the same area, industry, or neighboring plants and related industries. Since average or maximum wages in an area might turn out

62 See p. 1028, infra.
63 See cases collected in Sheffield, "Wartime Wage Control," 11 Geo. Wash. L. Rev. 399 at 416, 417, notes 42, 43, 44 and 45 (1943). The board has also followed a policy of equalizing sex, age and race differentials—this apparently is somewhat of an exception to its policy, hereafter discussed, of non-interference with "historical" differentials. See "WLB: Wage Adjustments in Reclassification Cases," 18 War Lab. Rep. XII at XIII (1944). But where it is both impossible and inadvisable for female employees to undertake heavy physical labor which has been established as part of cer-
to be higher or lower than those in an industry, for example, the inequalities increases permitted varied with the choice of comparable units. Though the board might have seized this opportunity to introduce an anti-inflationary policy to some extent into the administration of inequalities increases, by always selecting units offering lower average or maximum wage rates, this was not done. The inequalities principle alone prevailed and the policy generally followed was one of disallowing equalization on the basis of larger units only where the resulting adjustments would cause inequalities within smaller units.64 So far as it went this policy was sound, since labor turnover and migration is more likely to result from comparatively higher wages offered within an area rather than those offered by industry at distant plants.

But this policy did not go far enough, for the prevention of labor migration is not the only reason for the maintenance of a sound wage structure. Absence of a rationalized wage pattern creates low employee morale and means a lack of incentive to employees such as would spur them on to train themselves for or try to perform jobs requiring greater skill. However, despite the frequent presence in established wage structures of inconsistencies and wage differentials seemingly unrelated to quality and quantity of work, the board was, except for some instances of intra-plant inequalities later discussed, content to eliminate differentials resulting from deviations from established wage structures65 and to maintain wage rate differences established in the past. Thus the board refrained from correcting the north-south differ-

tain jobs when performed by men and where as a consequence the employment of women workers may entail extra supervision, extra set-up men, or extra carry-off men extra labor costs can be computed and can be given pro rata weight in establishing an equitable rate of pay for the female worker.

64 See for example: In re Five St. Louis, Mo. Refractories Cos., NWLB No. 348 (2476-CS-D), 7 War Lab. Rep. 1 (1943); In re Reynolds Metals Alloys Co., Inc., NWLB No. 796, 6 War Lab. Rep. 370 (1943); In re J. I. Case Co., NWLB No. 130, 6 War Lab. Rep. 60 (1943); In re Shell Oil Co., NWLB No. 511, 6 War Lab. Rep. 45 (1943); In re American Enka Corp., NWLB No. 182, 6 War Lab. Rep. 343 (1943); In re Tennessee Products Corp., NWLB No. 329, 5 War Lab. Rep. 91 (1942); In re Ford Motor Co., NWLB No. 234, 4 War Lab. Rep. 59 (1942); In re Non-Ferrous Metal Cos., NWLB Nos. 185, 218, 228, 237, 275, 276, 341, 344, 345, 346, 347, 390, 393, 4 War Lab. Rep. 147 (1943); In re Mack Mfg. Corp., NWLB No. 76, 3 War Lab. Rep. 87 (1942); In re Associated Milk Dealers, Inc., NWLB No. 271, 3 War Lab. Rep. 183 (1942).

65 See qualification of this statement on p. 1033, infra. But it was in line with the policy stated in the text that the board frequently granted wage adjustment to maintain customary differentials between industries. In re Hubbard & Co., NWLB No. 2794-D, 7 War Lab. Rep. 444 (1943); In re Harbison-Walker Refractories Co., NWLB No. 266-A, 266-B, 266-C, 3 War Lab. Rep. 279 (1942); In re Harbison-Walker Refractories Co., NWLB No. 145, 3 War Lab. Rep. 274 (1942).
ential present in many industries and other "historically justified" industry-wide wage rate discrepancies. If there is any justification for this policy it lies in the administrative difficulties involved in reforming widespread and well established wage patterns, and the inflationary threat of the many increases that would as a consequence have to be approved.

2. Development since April 1943. This last mentioned threat proved formidable, however, even despite the fact that the board had thus limited its objective. Inequalities increases had become a favorite way of getting around the restrictions still remaining in the Little Steel formula. Between October 3, 1942, and March 19, 1943, 62 per cent of the increases permitted by the board were ostensibly for the purpose of eliminating inequalities. Consequently, in the "Big Four" Meat Packing cases the board further limited the application of the

60 In re Aluminum Co. of America, NWLB No. 66, 1 WAR LAB. REP. 7 (1942). "... elimination of the wage differential involved in this case would have an undesirable disrupting effect at this time on the general economy of the areas in which the plants in question are located .... [and] is bound to produce repercussions and negative effects on industrial expansion programs, competition for labor and the continued operations of some industrial concerns. It is obvious that such effects should be avoided during the war period because they are not in the best interests of aiding the presentation of our war program." Id. at 13. In re Reynolds Metals Co., NWLB No. 193, 2 WAR LAB. REP. 496 (1942); In re Thirty-six New England Textile Cos., NWLB Nos. 104, 105, 123, 121, 134, 137, 153, 138, 133, 151, 116, 72, 170, 313, 2 WAR LAB. REP. 345 (1942); In re New England Textile Operators, NWLB No. 147, 2 WAR LAB. REP. 102 (1942).

61 In re Five St. Louis, Mo. Refractories Cos., NWLB No. 348 (2476-CS-D), 7 WAR LAB. REP. 1 (1943); In re Phoenix Iron Co., NWLB No. WA-177, 6 WAR LAB. REP. 220 (1943); In re Detroit Maintenance Employees, NWLB Nos. 125, 126, 234, 240, 4 WAR LAB. REP. 220 (1943); In re Harbison-Walker Refractories Co., NWLB No. WA-404, 5 WAR LAB. REP. 561 (1942). Conversely increments were granted not merely to correct inequalities but also to maintain established differentials. In re Lane Cotton Mills Co., NWLB No. 658, 7 WAR LAB. REP. 281 (1934). See also S. Hearings on S. J. Res. 161, 77th Cong. 2nd sess. (1942) 104 (Committee on Banking and Currency). See note 65 supra.

62 "Out of a total of 8,971 wage increases granted by regional War Labor Boards between October 3, 1942 and March 19, 1943, 5,572, or 62 per cent were granted for the purpose of eliminating or reducing inequalities; 20 per cent were granted as cost-of-living adjustments; and less than 1 per cent were granted to eliminate substandards of living; other increases were based on a combination of these factors." Sheffield, "Wartime Wage Control," 11 GEO. WASH. L. REV. 399 at 423, n. 67 (1943). How great a loophole these increases constituted is perhaps indicated by the fact that they amounted on one occasion to an increase of 71 per cent over Jan. 1, 1941 wages. In re The Endicott Forging & Mfg. Corp., NWLB No. 334, 4 WAR LAB. REP. 392 (1942).

63 In re "Big Four" Meat Packing Cos., NWLB Nos. 186, 181, 189, 188, 245, 187, 6 WAR LAB. REP. 395 (1943). See also In re Boeing Aircraft Co., NWLB Nos. 174, 307, 557, 558, 608, 609, 610, 673, 6 WAR LAB. REP. 581 (1943); In re
inequalities principle by indicating that it would no longer grant increases to eliminate differentials in wage rates between industries. And finally, in April 1943, the President issued his “Hold-the-Line Order,” whereby he attempted to stem the inflationary trend prevailing in the country by, among other things, removing the board’s power to grant inequalities increases.

Though this was expected to help hold back inflation, the ensuing threat of labor migration was quickly realized and the chairman of the War Man Power Commission was consequently authorized to bar the transfer of any employee from one job to another paying a wage higher than that formerly received. But this was insufficient. First, job freezing without concomitant wage equalization had proved ineffective in the past. Thus, in the case of the copper, lead and zinc workers in Idaho and Utah, governmental job freezing orders failed to halt a migration to higher paid jobs that had in the first nine months of 1942 drained 20 per cent of the working force available in those states. Only after the board had granted a one-dollar-a-day increase to over ten thousand workers and established a Non-Ferrous Metal Stabilization Panel was this exodus successfully halted. Second, employee morale and incentive is not maintained by any job freezing order. At least, established differentials must not be disrupted. But this is a difficult task without the power to grant inequalities increases. For established differentials were especially vulnerable because increases under the Little Steel formula would frequently result in higher wages to wage earners in a lower job classification without correlative increases to those in a higher job classification. Moreover, the Little Steel formula proved generally difficult in this connection, as may be illustrated by the United Atlas Cement case which reached the board shortly after the “Hold-the-Line Order.” The board had previously awarded a wage increase of 5½ cents an hour to employees in some of the plants of a company that had in the past applied a uni-

Reynolds Metals Co., NWLB No. 796, 6 WAR LAB. REP. 370 (1943) (refusal to equalize rates of company with those paid by a nearby government-operated plant).


71 Id. at § 2. The board is directed “to authorize no further increase in wages or salaries except such as are clearly necessary to correct substandard of living... or are... in accordance with the Little Steel Formula... for the rise in the cost of living.”

72 See 6 W.H. REP. 389 (1943).

73 In re Non-Ferrous Metal Cos., NWLB Nos. 185, 218, 228, 237, 275, 276, 343, 344, 345, 346, 347, 390, 393, 4 WAR LAB. REP. 147 (1942).

74 In re Universal Atlas Cement Co., NWLB No. 2931-CS-D, 7 WAR LAB. REP. 474 (1943).
form wage policy. But under the *Little Steel* formula the board could only grant an increase of 2 cents to employees in the plant involved. The company’s uniform wage policy was thus endangered. Had the board remained powerless to grant inequalities increases a similar problem would have arisen in some 17,000 pending cases.

Consequently, on the board’s unanimous request and by virtue of the delegation of the President’s wage stabilizing powers to him in the “Hold-the-Line Order,” the Director of Economic Stabilization on May 12, 1943, restored some of the board’s powers to correct inequalities. This directive authorized the establishment of wage brackets of “sound and tested rates” by occupational groups per industry per labor market area which permitted changes to be made in other rates only up to the minimum of such brackets, except in “rare and unusual” cases. In connection with increases, resulting in intra-plant inequalities, which might have been granted to underpaid occupational groups because of the *Little Steel* formula or because, as shall later be seen, their wages were substandard, or as related to the adoption of a longer workweek, correlative increases could be approved in immediately interrelated job classifications in order to preserve the minimum differentials necessary for the maintenance of productive efficiency.

3. *Intra-Area Inequalities.* Under this newly established system of maintaining a sound wage structure undue differentials within an area were mitigated by permitting wage rates below the minimum of an established bracket of “sound and tested” rates to be increased up to such minimum. An understanding and evaluation of this new “inequalities” doctrine depends therefore on some description of how these wage brackets were or could have been established.

The herculean administrative task of determining rate brackets, or rate ranges from minimum to maximum of stable, tested rates for given occupation per industry per labor market area, fell on the Re-

**Notes:**


78 See pp. 1039-1041, infra.

79 See pp. 1035, 1043, infra.
Regional War Labor Boards. First, rate data had to be collected and classified with the aid of trade association surveys, union agreements, files of minor research agencies, special surveys of particular companies, regional wage data files and studies by the Bureau of Labor Statistics. Secondly, such data had to be translated into brackets. This required first, the determination of comparable job classifications; second, the determination of labor market areas; and finally, the establishment of minimum wage rates or wage rate ranges.

As to defining comparable occupations, this could only be done according to job descriptions of which those of the United States Employment Service and United States Department of Labor were the most frequently used. In determining comparable occupations such elements, regularly used for purposes of job analysis, as the type of industry and the method of wage payment and the additional element of the degree of unionization, assumed importance. This latter

80 Instructions, Executive Order 9328, § 1-A (1943), reprinted in 8 WAR LAB. REP. XXII (1943). This work was to be done by a tripartite division organized within each regional board with the assistance of regional wage stabilization divisions and the National Board's wage stabilization division, which had previously been established. Ibid.

81 Id. at § II-B, p. XXIII. See also Resolution on the San Francisco and Los Angeles Brackets for Clerical and Office Employees, NWLB Press Release B-1661 (1944).

82 The national board's instructions read: "In localities where each establishment pays ranges of rates rather than single rates for a given job classification, the minimum of each plant's rate range rather than the average or maximum rate should be utilized to determine the minimum of the wage bracket ... where some establishments pay a single rate and other establishments pay a range of rates, the minimum rate of the wage bracket may be set either at the first substantial and representative cluster of the minimum rates of the ranges or at the first substantial and representative cluster of the single rates. In setting the bracket minimum for a given job on the basis of single rates, the regional boards may consider the weighted averages of the rates for the job by the respective rate-range companies as the equivalents of single rates. Instructions, Executive Order 9328, §§ II-B-2-C(2), (3), reprinted in 8 WAR LAB. REP. XXII at XXIV (1943). The weighted average is normally the midpoint of the rate range. Id. at § III-B-3(a), p. XXV; Statement of Policy, Going Wage Rates of Region VIII (Dallas), MANUAL OF GOING WAGE RATES 233, § 3 (1944). Some Regional Boards have established two sets of rate brackets in order to meet this problem. See for example, Going Wage Rate of Region II (New York), 13 WAR LAB. REP. 847 (1944).

83 See for example, Going Wage Rates of Region IX (Denver), MANUAL OF GOING WAGE RATES 423 (1944); Going Wage Rates for Region VIII (Dallas), id. at 233.

84 BALDERSTON, WAGE SETTING BASED ON JOB ANALYSIS AND EVALUATION 5, 38-43 (1940).

85 Instructions, Executive Order 9328, § II-B-1(b) (1943), reprinted in 8 WAR LAB. REP. XXII (1943). As to how incentive methods of wage payment are sometimes dealt with even though the going wage rates are set as hourly rates, see Opinion of
element can probably be explained by the fact that the bargaining power of unions need be reckoned with from the point of view of expedient handling of the labor market; though from the point of view of preserving morale and incentive and preventing labor migration the degree of unionization should probably make no difference.

As to the use of labor market areas, the national board recommended that the regional boards consider a single locality the usual labor market area, but indicated that there was no hard and fast rule with respect to geographical and industrial coverages. Closely contiguous and related localities, scattered plants over several areas, or entire regions might be considered appropriate labor market areas for job classifications in certain industries. This, of course, originally gave the regional boards a great deal of latitude. And there existed the legal possibility for the return of the full inequalities criterion which both the President and the national board had considered inflationary. As a consequence, the national board, on April 15, 1944, in the North American Aviation case, announced the principle, which now gener-

the Board on Cleveland Foundry Rates, 13 WAR LAB. REP. (Advance Sheets, Feb. 9, 1944) W-69, W-71. See also note 94 infra. As to how the degree of unionization and the strength of the union probably influenced the board in setting higher than normal going wage rates, see id. at W-72, 73. Since the type of industry is an element in bracket determination government rates have not been used in determining brackets. In re Loew's, Inc., NWLB No. II-3354, 11 WAR LAB. REP. 768 (1944).

Instructions, Executive Order 9328, II-B-4-c (1943), reprinted in 8 WAR LAB. REP. XXII at XXIII (1943). In re Southeastern Area Employers Negotiating Committee, NWLB No. 3372-A, 12 WAR LAB. REP. 666 (1943) (Determination on industry-wide basis in case involving over-the-road truckers); In re Pound Brothers Lumber Co., NWLB No. 111-4330-HO (9-D-93), Region IX, 13 WAR LAB. REP. 561 (1944) (Adjacent area rates used in lumber industry); In re Bell Aircraft Corp., NWLB No. 1-7286, Region I, 11 WAR LAB. REP. 143 (1943) (Entire State considered as labor market area); In re Central Maine Power Co., NWLB Press Release No. B-1635 (1944); In re Portland Traction Co., NWLB No. 111-1643-D, 13 WAR LAB. REP. 138 (1944); Director of Economic Stabilization, Transit Directive, issued April 14, 1944 (adjacent city rates used in transit industry). See also In re American Telephone & Telegraph Co., NWLB No. 111-7526-D, 8 W. H. REP. 231 (1945). In re Chesapeake & Potomac Telephone Co., NWLB No. 111-1144-D, 8 W. H. REP. 231 (1945); In re New York Telephone Co., NWLB No. 111-7204-D, 8 W. H. REP. 232 (1945).

See In re Brockton Gas Light Co., NWLB No. 111-7568-D, Region I, 17 WAR LAB. REP. 649 (1944); In re American Barge Lines, NWLB Nos. 111-3366-D, 111-3546-HO, 111-2674-D, 111-3964-HO, 15 WAR LAB. REP. 540 (1944); In re Barium Products, Ltd., NWLB No. 111-858-D (10-D-78), Region X, 14 WAR LAB. REP. 67 (1944); In re Texas Star Flour Mills, NWLB No. 8-10581, Region VIII, 14 WAR LAB. REP. 65 (1944).

ally governs, that company-wide uniformity of wage rates must give way to area wage stabilization. This has the disadvantage that resulting differentials within companies or industries might still cause both labor migration and low employee morale. Moreover, it is still not clear that the selection of labor market areas in general has been geared to the major objective of intra-area comparison, i.e. the prevention of labor migration, for there seems little indication that labor market areas designated by the regional boards have been determined on the basis of labor migration studies. This is important because choosing areas arbitrarily amounts to establishing an arbitrary standard for granting inflationary wage increases without accomplishing the sound objective, the stoppage of labor migration.

The final step in establishing wage brackets, as earlier indicated, was the determination of bracket minima and maxima. These were at first not easy to determine. The board, consequently, suggested a "rule of thumb" method whereby rates 10 per cent below and above the average were fixed as tentative bracket minima and maxima respectively.

Wage brackets, as they were established by the regional boards, are of course subject to the objection stated with respect to the earlier "inequalities" doctrine. Differentials between brackets are based on statistics of established wage rates which have not generally been tested

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91 Instructions, Executive Order 9328, § II-B-2-b (1943), reprinted in 8 War Lab. Rep. XII, XXIII (1943).
by any method of job evaluation. Job evaluation would grade jobs according to such factors as mental effort, skill, physical effort, responsibility, education, and working conditions. The final wage curve would then distribute the money available for wages according to such a gradation. No such method was followed, however, and the wage brackets were usually arrived at on the basis of mere statistics of established rates. (Of course in some cases, as shall later be seen, the board has ordered the revamping of wage structures, etc. But even this revamping is controlled by brackets which have not been arrived at after a general revamping or testing of the soundness of rate structures in the area.) The resulting differential to which the wage structure in an area is now geared may therefore be said to be of doubtful value from the point of view of preserving employee morale and incentive.

Another difficulty arises because wage brackets tend to become obsolete and then fail to meet the requirements of the particular market at a particular time. Since no more than 25 per cent of newly hired workers may be paid more than bracket minimum wages, this creates difficulties for personnel directors. Moreover, government employees are exempt from the wage brackets and their wages are not included in determining such brackets. It happens, therefore, that the government can compete favorably with private industry for the available manpower.

Further, it should be noted that in establishing tentative minima an arbitrary 10 per cent below average wage level was chosen. Moreover, whether tentative or permanent the wage level to which all wages may be adjusted is under the bracket system below the average wage level in the area. This should be contrasted with the board’s pre-April policy of raising rates up to the average or maxima in the area. The bracket system as it now stands does not prevent migration of laborers from establishments paying minimum rates to those paying maximum rates. This objection should be noted, despite the doubtful possible contention in support of the bracket system, that since minimum brackets represent wages paid by some concerns in this area, which have not suffered labor migration and turnover, adjustment up to those rates should be sufficient to prevent such migration and turnover.

92 The War Labor Board has instructed its regional boards that wage brackets may not be revised on the basis of wage data reflecting currently paid wage rates. If revised at all it must be to reflect rates in effect as of April, 1943. 8 W. H. Rep, 52 (1945).

93 See 8 W. H. Rep. 5 at 8 (1945).
Finally, the bracket system, just like the Little Steel formula, is based primarily on wage rates and such factors as bonuses\(^94\) are not considered. Unless the granting of bonuses becomes regulated to a greater extent than, as shall hereafter be pointed out, is now the practice this exemption may prove undesirable even from the point of view of the policy behind the inequalities doctrine. For it is obvious that though wage rates for comparable work in an area may be equal, the ultimate wage will not be because of the addition of, for example, a Christmas bonus, or rotating shift differential.\(^95\)

4. Intra-Plant Inequalities. Although the bracket system thus to a large extent restored the board's pre-April powers with respect to inter-area "inequalities," it failed to do so with respect to intra-plant "inequalities." For it became difficult to maintain established differentials between job classifications in those situations where an increase was granted up to the minimum bracket to workers in a job classification immediately below another classification whose rates are already above the minimum of its applicable bracket. Strictly speaking, under a bracket system, the higher classification rate should not be increased to maintain the differential between it and the lower rate. The same has been true in cases where the lower rate was increased because of the Little Steel formula, or because, as shall later be indicated, lower bracket wages were substandard.\(^96\) To avert this difficulty the regional boards have sometimes granted general increases to workers in all job classifications by as much as the amount of the lower classification increase,\(^97\) despite the fact that such general increases violated the bracket principle. The national board has repeatedly warned, however, that above-minima increments must be tapered so as to preserve, not

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\(^94\) See "Clarification of Rate-Range Rules," 7 W. H. REP. 772 (1944); but the inclusion of length-of-service bonuses for the purpose of including them in wages to be compared under the bracket system has been upheld. In re The Quaker Oats Co., NWLB No. 111-5422-D (7-D-873), Region VII, 18 WAR LAB. REP. 467 (1944). And commission rates as well as incentive pay have also been included by at least one regional board. In re Pacific Intermountain Express Co., NWLB No. 111-1614-D, Region IX, 16 WAR LAB. REP. 732 (1944).

\(^95\) See In re American Keene Cement and Plaster Co., NWLB No. 111-8062-HO, Region IX, 7 W. H. REP. 1015 (1944).

\(^96\) See pp. 1041-1044, infra.

\(^97\) In re Ken-Rad Tube & Lamp Co., NWLB No. 2942-D (815), 14 WAR LAB. REP. 557 (1944); In re Armour Fertilizer Works, NWLB No. 111-879-D (VIII-D-30), 12 WAR LAB. REP. 128 (1924); In re Detroit Bevel Gear Co., NWLB No. 111-2621-D, Region XI, 14 WAR LAB. REP. 713 (1944) reversing 13 WAR LAB. REP. 578 (1944); In re United States Gauge Co., NWLB No. 324 (2452-D), Region III, 9 WAR LAB. REP. 304 (1943).
existing differentials, but differentials necessary to maintain productive efficiency. In other words the board permitted reductions of established differentials to some extent and the regional boards have usually followed this method.

It seems reasonable to expect that once the board permitted such a deviation from the established wage structure, the tapering method would be based on recognized techniques of job evaluation. However, the method generally has been merely to allow lower above-minimum increases the greater the original rate of pay. That there has been no utilization of evaluation techniques in connection with the tapering principle seems evident, and this is obviously undesirable from the point of view of preserving employee morale and incentive. Such morale and incentive is perhaps to some extent preserved by the board’s policy, laid down in the Eberbest case, of permitting limited employer-union negotiation to determine tapered increases. Both employer and union will at least to some extent take morale and incentive elements into consideration. And as shall be seen in the section dealing with individual increases, in relatively few cases have job re-evaluation and new rate schedules been ordered to correct intra-plant inequalities in general, especially where no system of classification had been established in the past.

98 See Amendments to Wage and Salary Regulations Issued by the Director of Economic Stabilization, Aug. 31, 1943, § 4001.11 reprinted in 6 W. H. REP. 848 at 851 (1943).

99 In re Shirt Institute, Inc., NWLB Nos. 111-1641-D, 111-1862-D, 111-1546-D, 13 WAR LAB. REP. 81 (1943); In re Richmond Engineering Co., NWLB No. 4299-AR (AR-445), 13 WAR LAB. REP. 421 (1944); cf. Instructions, Executive Order 9328, III-C-1 (1943) reprinted in 8 WAR LAB. REP. XXII at XXV (1943).

100 This seems especially true where piece rates were involved. In re Shirt Institute, Inc., NWLB No. 111-1641-D, 111-1862-D, 111-1546-D, 13 WAR LAB. REP. 81 (1944); In re International Shoe Co., NWLB No. 111-2615-D, Region I, 14 WAR LAB. REP. 309 (1944). Of course job analysis techniques have been followed in the occasional case where it had been undertaken by the company, In re The Boeing Aircraft Co., NWLB No. 557, 11 WAR LAB. REP. (1943). See also Gray, Systematic Wage Administration in the Southern California Aircraft Industry (1943), and in other cases where the entire wage structure was grossly inadequate. See pp. 1044-1046, infra.

101 In re Everbest Engineering Co., NWLB No. 551, 8 WAR LAB. REP. 607 (1943); In re Reynolds Metals Co., NWLB No. 2923-D (796), 14 WAR LAB. REP. 799 (1944).

102 The extent to which “established” rather than sound differentials are regarded as important by the board may be illustrated by the fact that in an extreme case an increase up to the going wage rates in the area which would disrupt an established differential between markets. In re Southern California Telephone Co., NWLB No. 111-4647 (10-D-304), Region X, 7 W. H. REP. 1079 (1944).
5. Inequalities and the Little Steel Formula. Certain further aspects of the interrelationship between the Little Steel formula and inequalities remain to be considered. It has been noted that the inequalities doctrine played a role in determining offsettable and non-offsettable increases even before April 1943; but it also had a further effect on Little Steel increases. In the Lever Brothers case the board, shortly after the Little Steel decision, made it clear that where a wage raise pursuant to a full 15 per cent total allowance would result in serious unstabilizing effects on the local labor market, the total maladjustment allowance would be proportionately reduced. In other words, where mechanics in one plant in an area were getting eighty cents an hour and mechanics generally in the area were getting eighty-five cents, mechanics in the first mentioned plant could never, under the Lever Brothers doctrine, receive more than a five cent increase under the formula, although, were the “inequalities” factor not present, they would be entitled to as much as a ten or twenty cent increase. Not only did this policy obviously conflict with the board’s objective of preserving labor’s standard of living, but as already indicated in the discussion of the necessity for inequalities increases after the “Hold-the-Line Order,” it did not succeed in preventing inequalities caused by the Little Steel formula. This was due first of all to the switch of comparability units with respect to the application of the Lever Brothers doctrine and the application of the general inequalities doctrine. Thus, in applying the Lever Brothers doctrine a regional board might compare merely the wages of workers doing comparable work in the area, but in applying the inequalities doctrine a board in another region might look to the wages paid in other plants in the company. Thus an increase of five cents might not cause inequalities in an area, but might, nevertheless, bring wages above those paid in other plants of the company, necessitating a further inequalities increase in those other plants. This probably brought about the situation in the aforementioned Atlas Cement case and similar cases then pend-

ing before the board. Secondly, the Lever Brothers doctrine was rarely applied so as to preserve sound differentials between wage rates, although within a single Little Steel unit, this defect, as heretofore noted, was at least somewhat offset by the method of distribution of wage increases adopted by the board.

With the establishment of wage brackets of "sound and tested" area rates, the total maladjustment allowance under the Little Steel formula has generally been reduced where application of the full 15 per cent would yield final wage rates exceeding the maximum of such brackets. This reduction of the total allowance so that the final wages do not exceed bracket maxima is optional with the regional boards. Moreover, the Lever Brothers doctrine has not entirely disappeared and where serious unstabilizing effects on the local labor market would be caused by rates exceeding the minimum or the average sound and tested rates, increases above such wage levels have frequently been denied. Thus the board has at its disposal an arsenal of weapons which provides at least a rough method for integrating the Little Steel formula with the inequalities doctrine. First, it has the leeway to allow wage oscillation over a range from the minimum to the maximum of a bracket. And second, it may clamp down wherever necessary by applying the less statistical but sometimes more practical Lever Brothers doctrine. Of course, it is obvious that all the difficulties of integration are not yet solved. Especially, the board's policy of preserving labor's standard of living is still thwarted. A suggested system of closer integration of the wage stabilization program must,

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105 Instructions to Regional Boards, June 10, 1943, § III-A, reprinted in 1943. W. H. MAN. 562 at 564. In re Detroit Steel Products Co., NWLB No. 111-4414-D, Region XI, 14 WAR LAB. REP. 296 (1944); In re Centrifugal Fusing Co., NWLB No. 2480-D, Region XI, 12 WAR LAB. REP. 270 (1943); In re Timken-Detroit Axle Co., NWLB No. 111-073-D, Region XI, 10 WAR LAB. REP. 720 (1943). Frequently the increase has not been allowed above the minimum rates. In re J. S. Bache and Co., NWLB No. 2740-D, 13 WAR LAB. REP. 390 (1944); In re Goodyear Tire & Rubber Co., NWLB No. 2550-D, Region XI, 14 WAR LAB. REP. 416 (1944); In re Denver Bakery Co., NWLB No. 111-1772-D (IX-D-49), Region IX, 12 WAR LAB. REP. 381 (1943). The maladjustment allowance has also been limited to the average rates. In re Motor Wheel Corp., NWLB No. 111-221-D, Region XI, 14 WAR LAB. REP. 646 (1944) affirming NWLB No. 111-221-C, Region XI, 10 WAR LAB. REP. 714 (1943). The matter is really optional with the regional boards for the instruction, cited above, reads: "In maladjustment cases the Regional Boards should consider whether or not, in cases where the 15 per cent formula would move the rate for any job classification above the maximum of the appropriate bracket the increase for such classification should be limited to the maximum of such bracket, and the regional boards have consequently increased wages under Little Steel formula even beyond the brackets. In re Seattle Master Printers Assn., Inc., NWLB No. 111-7562-HO, Region XII, 7 W. H. REP. 824 (1944).

106 See case cited note 104, supra.
however, be left to the conclusion of this article, after other aspects of the board’s practice have been considered.

C. Effective Prosecution of the War

Still another type of increase, over and above the wage level prevailing on September 15, 1942 which the board was authorized to grant by Executive Order 9250, was that necessary "to aid in the effective prosecution of the war."107 This was to be the weapon required by the board to save the country from severe manpower crises. While the "inequalities" doctrine was designed to prevent potential manpower trouble, increases "to aid in the effective prosecution of the war" were to salvage more imminent manpower problems, of which the aforementioned situation involving the non-ferrous metal workers of Utah and Idaho is probably the more extreme example. But since from an anti-inflationary point of view such increments were undesirable, the President eliminated them in his "Hold-the-Line Order," together with those necessary to correct inequalities.108 It was mentioned earlier, however, that the powers subsequently given the board by the Director of Economic Stabilization included that of granting increases beyond the bracket minimum in "rare and unusual" cases.109 This grant amounted in effect to a restoration of the board’s power to grant increases "to aid in the effective prosecution of the war."

For increases granted under the label of "rare and unusual" have been of the same type as those earlier granted "to aid in the effective

109 Policy Directive, May 12, 1943, § I reprinted in 8 War Lab. Rep. XIV at XV-XVI (1943); Instructions, Executive Order 9328, § III-B (1) (1943) reprinted in 8 War Lab. Rep. XXII at XXIV. The following criteria are suggested to determine an applicant’s relation to the war effort:
   "a. The establishment should be engaged primarily in an activity included in the War Manpower Commission’s List of Essential Activities or covered by the WMC’s designation of locally needed activities;"
   "b. ... must have been in compliance with all the War Manpower Commission’s regulations and policies with respect to recruitment, training, and utilization of labor and with respect to operation on a Minimum Wartime Workweek (as defined in Section 4 of WMC Regulation No. 3)." As to procedure in handling such cases jointly by the War Manpower Commission and the War Labor Board, see War Manpower Commission, Field Instruction No. 160 (1943) reprinted in 13 War Lab. Rep. XXII (1944). But the mere testimony of war agency officials is not sufficient, where the effect of the increase is unstabilizing and there is a lack of effort on the part of other agencies to solve the manpower problem. In re Northwest Fir Cos., 16 War Lab. Rep. 6, 552 (1944). In re Western Electric Co., NWLB No. 13-456, 16 War Lab. Rep. 490 (1944).
prosecution of the war.” First, the cases where they were granted have involved the problem of recruiting and maintaining a labor force.\textsuperscript{110} Second, the type of wage levels to which wages involved in a “rare and unusual” case could be raised might be those of the area, the industry, other areas and other industries,\textsuperscript{111} just as in the earlier cases involving increases “to aid in the effective prosecution of the war.”

It would seem, therefore, that highly flexible criteria permitting inflationary increases were thus restored despite the President’s “Hold-the-Line Order.” But while if expanded the new principle could prove a convenient loophole to the nation’s wage stabilization policy, it has up to now been fairly strictly applied. The board’s power may be exercised only where conditions are “grossly inequitable” or the increase “highly essential to the success of the war effort.” And in the \textit{Northwest Fir Companies} case,\textsuperscript{112} decided on June 16, 1944, the board elaborated further the conditions prerequisite to a “rare and unusual” increase.

“1. The product or service involved must be of vital or critical importance to the war effort.

“2. There must be a convincing demonstration of a serious manpower problem which cannot be solved by non-wage measures.

“3. There must be convincing evidence that the present wage structure is outmoded and inadequate for the purpose of holding or attracting the necessary supply of labor.

“4. There must be a concerted program of the various wage agencies concerned which is designed to remedy the manpower and production problem and which necessitates a wage adjustment as an indispensable part of the combined plan.

“5. Finally, there must be substantial evidence to demonstrate that a wage increase will accomplish the desired result and that the advantages of a wage increase will not be offset by undue disruption of the wage structure of the industry or the region.”\textsuperscript{113}

\textsuperscript{110}See for example: In re Association of Team and Truck Owners, NWLB No. 24-966, 14 \textit{War Lab. Rep.} 32 (1944); In re Airsearch Manufacturing Co. of Arizona, Inc., NWLB No. X-11410, Region X, 13 \textit{War Lab. Rep.} 444 (1944); In re Milk Products Manufacturers’ Assn., NWLB No. 10-7210, Region X, 12 \textit{War Lab. Rep.} 348 (1943).

\textsuperscript{111}In re The Boeing Aircraft Co., NWLB No. 557, 11 \textit{War Lab. Rep.} 268 (1944) (comparison of aircraft company rates with those paid by shipbuilding companies). In re Akron Transportation Co., NWLB No. V-D-157 (111-1181-D), Region V, 11 \textit{War Lab. Rep.} 153 (1943) (Rates to transportation workers compared to generally higher wages received by war workers); In re Fresno Employers Assn., NWLB No. 111-5571-D (10-D-358), Region X, 17 \textit{War Lab. Rep.} 53 (1944) (“Rare and unusual” increase previously granted is extended to other firm in industry per area).

\textsuperscript{112}In re Northwest Fir Cos., 16 \textit{War Lab. Rep.} 352.

\textsuperscript{113}Id. at 358.
In denying wage increases for 130,000 workers up to 25 cents an hour, to approximate wages in the shipbuilding industry, despite testimony of the War Production Board and the War Manpower Commission that such increases were necessary to alleviate the serious manpower shortage in this critically important industry, the board considered the problem in the light of the above prerequisites. The fifth prerequisite was not met because the aircraft and shipbuilding industries were also faced with a manpower shortage. The area manpower problem would obviously not be solved by raising wages in one industry where manpower is short in order to attract laborers from another industry equally short handed. The third prerequisite was not met since, in the northwest lumber industry, wages had already been raised to the level of those prevailing in other industries in the area. The objective sought by the applicants was to raise wages still further so that they could compete with other vital industries for the available manpower. And since the Selective Service had failed to grant special occupational deferments to men under 26 in the lumber industry and the War Department had failed to give furloughs to skilled lumber workers, the fourth test was also not met.

As long as the board, thus, restricts its power to grant "rare and unusual" increases, no danger of a complete disruption of the board's wage stabilization program springs from that quarter. It should be mentioned, however, that the labor members dissented in the Northwest Lumber case and criticized the board for confining itself too much to a consideration of recruiting problems while neglecting problems of possible migration and turnover which were also present. But these problems, it should be pointed out, involve matters of potential manpower ills and have probably not been corrected because of the inadequacies of the board's bracket system, discussed earlier. Correction of such faults by increases in a single instance might create potential manpower ills in many other industries. These faults should therefore be corrected only by a uniform change in policy, such as the determination of new labor market areas or the framing of bracket maxima and minima on the basis of area-wide job evaluation. The emergency power of granting increases in "rare and unusual" cases is therefore properly confined to those instances where all has failed and manpower must be recruited, if feasible, at any cost.

D. Substandards

A further group of increases has been permitted by the board over the September 15, 1942 wage level. The peacetime wage structure included many rates that did not assure workers sufficient income to be properly housed, clothed and fed and to provide for the welfare of
their dependents. The exigencies of a war economy with its require­
ment of maximum productive efficiency on the part of each worker
demand, however, that such "substandard" rates be eliminated. The
board, therefore, from its inception, and the President by Executive
Order 9250 permitted increases to bring such rates up to minimum
standards.\footnote{114}

1. Development Before April 1943. The obvious inflationary
tendency of such increases was, at least potentially, enhanced during
the board's earlier period because of the board's utter lack of standard
as to what wages were insufficient or what wages were just sufficient
to provide for minimum needs of workers.

Only General Orders 7\footnote{115} and 30,\footnote{116} which permitted wage in-
creases under the Fair Labor Standards Act and similar state laws, and
increases up to 40 cents an hour without board approval, provided
some sort of criterion for substandard increases. As to increases which
required board approval, early decisions simply described as "sub-
standards" what the board later came to recognize as "inequalities."\footnote{117}
And the board's statement of policy, made shortly after Executive
Order 9250 simply stated that substandard cases will be decided "on
their individual merits."\footnote{118} This left the inflationary potentialities
of the substandards criterion practically unlimited.

2. Development After April 1943. These inflationary potentiali-
ties of the "substandards" doctrine became serious with the issuance
of the President's "Hold-the-Line Order" which discontinued incre­
ments to correct inequalities but left the board's substandard prin-
ciple untouched. Substandards increases, unless somehow restricted,
could easily have provided an important loophole to the stricter equali,
zation policy that followed the President's order.\footnote{119} This potential
danger led to the formulation of more definite standards as to what
\footnote{114} Executive Order No. 9250, 7 Fed. Reg. 196, p. 7871 (1942). For
discussion of some of the earlier cases see Sheffield, "Wartime Wage Control," 11 Geo.
Wash. L. Rev. 399 at 418 (1943); 28 Iowa L. Rev. 671 at 674 (1943).
XXI (1943). See note 109 supra.
\footnote{116} NWLB General Order No. 30, Aug. 27, 1943, reprinted in 10 War Lab.
Rep. XX (1943).
\footnote{117} See 91 Univ. Pa. L. Rev. 340 at 351 (1942); 28 Iowa L. Rev. 371 at 374,
n. 13 (1943).
\footnote{118} Sheffield, "Wartime Wage Control," 11 Geo. Wash. L. Rev. 399 at 418,
quoting from the President's Executive Order of October 3, 1942.
\footnote{119} See for example an early case subsequent to the issuance of the President's
"Hold-the-Line Order," where the board granted a 5 per cent increase as an "adjust-
ment leading to the elimination of substandards," as a result of a panel recommenda-
tion that this increase be granted in order to eliminate inequalities. In re General
wages were insufficient and what wages were just sufficient to provide for minimum needs of workers.

For most voluntary wage raise cases 55 cents an hour has become the national maximum substandard level. Thus, an earlier authorization to the regional boards to grant increases up to 50 cents an hour, without making an extensive wage analysis in all voluntary wage adjustment cases, pending their own determination of a standard wage, was amended so as to make 50 cents the maximum standard that could be established in a region.\textsuperscript{120} The only exception to this maximum were increases under the Fair Labor Standards Act and similar state legislation which might bring rates above 50 cents an hour; but these became subject to board approval.\textsuperscript{121}

Today “substandard” increases are controlled in the following way: voluntary increments up to 55 cents an hour or other minimum standard rates lower than 55 cents determined by the regional boards usually on an area basis, may be granted without board approval.\textsuperscript{122} In dispute cases, the regional boards may use their discretion whether to raise the rates up to the minimum substandard level or to use the appropriate bracket minima.\textsuperscript{123} And, just as in the case of \textit{Little Steel} increases, substandard increases may be accompanied by “tapered” adjustments to higher paid employees to maintain minimum wage differentials.\textsuperscript{124}

\textsuperscript{120} Amended instructions to Regional War Labor Boards on Determination of Substandard Rates (1944), reprinted in 12 \textit{WAR LAB. REP. XXXVI} (1944) amending earlier instructions reprinted in 6 \textit{WAR LAB. REP. XVII} (1943). For an example of a regional substandards limit below 50 cents see Determination of Substandard Rates by the Cleveland Regional War Labor Board (1944) reprinted in 14 \textit{WAR LAB. REP. XXXVIII} (1944) (45 cents established for Kentucky).

\textsuperscript{121} The exact wording of the Order is: “...the National War Labor Board hereby approves increases in wage and salary rates made in compliance with such statutes... provided, however, that, if any changes in such statutes... are made or promulgated after April 8, 1943, increases in wage or salary rates directed thereby which would result in a wage or salary rate in excess of 50 cents per hour may not be made without the approval of the Board.” NWLB General Order No. 7, Oct. 31, 1942, reprinted in 1943 \textit{W. H. MAN.} 536 at 537. See note 103 supra.

\textsuperscript{122} See Resolution issued by National War Labor Board, Feb. 26, 1945, 8 \textit{W. H. REP. 234} (1945). According to the resolution, these increases are subject to the approval of the Economic Stabilization Director if they are to be used as the basis for a petition for price relief.

\textsuperscript{123} In this connection the minimum substandard level has been determined on an industry basis. See for example, In re Shirt Institute, Inc., NWLB Nos. 111-1641-D, 111-1862-D, 111-1546-D, 13 \textit{WAR LAB. REP. 81} (1943); but cf. In re Elite Laundry Co., NWLB No. 111-7834-D, Region III, 19 \textit{WAR LAB. REP. 321} (1944), where the public members seemed to think application of bracket standards mandatory in a dispute case. See also Chairman Davis' testimony on Senate Resolution to raise substandard wage floor to 65 cents, reported in 7 \textit{W. H. REP. 1098} (1944).

\textsuperscript{124} In re National Assn. of Manufacturers of Pressed and Blown Glassware, NWLB No. 111-4919-D, 18 \textit{WAR LAB. REP. 53} (1944).
While, as has been indicated, the establishment of more definite criteria for "substandard" increases was essential from the point of view of maintaining inflation control, the establishment of a fixed 55 cent minimum was probably not desirable. A resolution was recently introduced in the Senate to raise the wage floor to 65 cents an hour.125 But this, too, would not remedy the situation. For certainly the cost of minimum needs varies from region to region and might well reach above the aforementioned arbitrary figures. Thus, on the basis of an emergency budget developed by the WPA in 1935,126 the Textile Workers Union recently computed 71.5 cents and 73.6 cents as the minimum hourly rate for four southern plants and one northern plant, respectively.127 Regional boards should at least have retained their power of fixing their own minimum standard on the basis of studies made in the various communities involved without any fixed limitation superimposed by the national board.

Finally, it seems erroneous to establish a limit in terms of substandard hourly straight-time rates, for these must always be otherwise translated. To someone working only 40 hours a week a rate below 50 cents an hour might be substandard. On the other hand to someone working 48 hours or even more it might well not be. A maximum limit or wage floor should therefore have been imposed in terms of take-home wages and not hourly wage rates.

II

Miscellaneous Wage Adjustments

It has already been pointed out that merit increases within a given rate range, reclassifications and promotions, automatic length of service increases, and increases made as a result of an apprentice or trainee program are essential to the maintenance of productive efficiency. They have, as a consequence, not been subjected to the more stringent control applicable to general increases. But this does not mean that they have escaped control altogether, for the board has regulated these further wage rate adjustments from the point of view of two principal aims; to prevent their being more inflationary than necessary, and to forestall their use as a mere disguise of general wage increases which would be subject to more stringent control.

While inter-plant inequalities have been discussed from the point

126 The budget is characterized by the WPA as "an emergency standard which may be necessary under depressed conditions."
of view of their alleviation by means of general increases to maintain or eliminate differentials existing within a plant, the method previously discussed involved increases to groups of workers whose jobs had either already been properly classified or assumed to be so classified. The change generally was one in wage rates only, and did not involve a change of the wage structure such as is accomplished by the reclassification of jobs and a corresponding rate change thereafter. Therefore, when the lack of the use of job evaluation techniques was earlier pointed out, the reader was warned that the criticism applied only to general increases effected in the way there described and not to the cases where further adjustments due to reclassification and other causes listed above have been regulated by the board. For where inequalities have involved the correction of wage rate relationships by means of reclassification, the regional boards have been instructed to do so with due regard for

- "(a) Maintaining proper rate balance among the various job classifications;
- "(b) Avoiding creation of unstabilizing inter-establishment effects;
- "(c) Avoiding appreciable increases in production costs through application of the principle that normally there should be no appreciable increase in the average of job rates."

And in this connection the boards have directed job classification surveys, ordered the parties to consult with a technical advisor, designated rate schedules, standardized job titles and directed the adoption of a particular job evaluation plan. And the board has more recently announced that the new rates, resulting from reclassification, are not governed by "going wage" brackets, but only by the standard of maintaining production costs. Yet rates in the area should, according to

128 Amended Instruction to Regional War Labor Boards and Commissions for Operation Under Executive Order 9328 and under the Supplementary Directive of May 12, 15 WAR LAB. REP. XLI at XLV (1944).

129 See for example: In re George A. Fuller Co., NWLB No. 11-5259-D, 18 WAR LAB. REP. 619 (1944); In re Big Four Meat Packing Co., NWLB Nos. 111-5759-D, 111-5762-D, 20 WAR LAB. REP. 210 (1944). In re Armstrong Cork Co., NWLB No. 2471-D (343), 10 WAR LAB. REP. 69 (1943), In re American Optical Co., NWLB No. 13-274, 11 WAR LAB. REP. 765 (1943); In re Niles Bement-Pond Co., NWLB No. 340, 9 WAR LAB. REP. 489 (1943); In re General Chemical Co., NWLB No. 267, 5 WAR LAB. REP. 387 (1942); In re West Coast Airframe Cos., NWLB Nos. 174, 307, 557, 558, 608, 609, 610, 673, 6 WAR LAB. REP. 581 (1943).

130 But according to the last official action of former Economic Stabilization Director Fred Vinson, reclassification increases may be made without regard to production costs if the average increase for all employees in the unit does not exceed 1 cent or 1 per cent and even these limits may be disregarded by the board in rare and unusual cases. 8 W. H. REP. 265 (1945).
the board, not become unstabilized as a result of reclassification.\textsuperscript{131} But if the going rates are the test of rate stability in the area, then how is the new rate structure to avoid having an unstabilizing effect on area rates, if it is allowed to exceed the going rates? And indeed, the board in giving such free reign to its reclassification powers has been accused of forging a new loophole into its wage stabilization policies.\textsuperscript{132} On the other hand, if the going wage rates were to limit the board's reclassification powers, then the value of these powers would be considerably lessened. For, where rate differentials between classifications are not only unsound in the particular plant where the wage structure is being revamped, but in the entire area, the board's order to re-evaluate jobs would do little good since the unsound rate structure of the area, as reflected by the brackets, will stand in the way of the required change.\textsuperscript{133} But except for this difficulty the board's attempt to rationalize the wage structures of industry has been a desirable one and foreshadows, probably, the coming of a sounder national wage policy in the future, brought about through encouragement and aid by government agencies.

While the determination of proper job classifications is desirable from the point of view of preventing intra-plant inequalities, it does not mark the end of the board's effort. For the mere fact that an employer has a paper schedule of proper job classifications does not prevent him from labeling anyone a first class mechanic, for example, in order to pay him a higher wage. Indiscriminate "promotion" and individual "reclassification" would thus become an easily available subterfuge by means of which general wage increases could be effected. Similarly many employers have rate ranges for each job classification, ranging from minimum to maximum, with the particular wage paid to each employee depending on some standard of his merit or length of service. What is to prevent an employer from effecting a general increase by simply raising the wages of all his employees in a given classification up to the maximum of the particular rate range? The incentive feature of the rate range would thus be lost and an inflationary increase would result.

\textsuperscript{131} In re Atlantic Coast Shipyards, NWLB No. 111-21701-D (25-319-D), 18 War Lab. Rep. 489 (1944). In the more recent cases the board has recommended that intra-plant inequalities be corrected by comparing rates in other plants in the industry and has directed the use of guide rates, i.e., approximately average rates being paid for a certain job in a labor market area, beyond which adjustments may not be made. See 7 W. H. Rep. 488 (1944); 8 W. H. Rep. 162 (1945); 8 W. H. Rep. 197 (1945).

\textsuperscript{132} In re Atlantic Coast Shipyards, NWLB No. 111-21701-D (25-319-D), 18 War Lab. Rep. 489 at 500 (1944).

\textsuperscript{133} This plan, as is clearly seen from the text that follows, is in addition to the
To forestall such practices the board has made subject to its approval all individual increases by a company that has not adopted the board's Model Plan.\textsuperscript{184} This plan places arbitrary limits on the number and amount of increases within job classifications or those due to promotions and individual reclassifications. Increases within job classification rate ranges have thus not been permitted to exceed 10 cents per straight time hour or more than two-thirds of the difference between the appropriate minimum or maximum rate, whichever is greater. Moreover, the total yearly expenditure devoted to such adjustments has not been permitted to exceed an average of 5 cents per straight-time hour for all the employees in the establishment.\textsuperscript{185} Finally, specific methods for budgeting and recording such increases throughout the year have been prescribed by the board in order to prevent employers from still disguising general wage increases as individual increases by creating fixed funds for wage increases equal to 5 cents for each man hour worked during the year, and by withholding all wage adjustments for a six months period and then increasing all employee's rates by 10 cents an hour on the theory that they average no more than 5 cents yearly, and do not total more than 5 cents per individual.\textsuperscript{186}

The Model Plan has further prescribed that individual increases due to promotions and individual reclassifications may usually not exceed 15 per cent of an employee's former wage, or the minimum rate job classifications approved by the board. Of course in addition to classifications approved by the board, an employer may follow a classification which he had already established, prior to the full development of the stabilization program. As to what constitutes job classifications which do not require board approval, see NWLB General Order No. 31, Aug. 24, 1943 (amended), § II-A, B, reprinted in 9 WAR LAB. REP. XVII at XVIII (1944).

\textsuperscript{184} See for example In re Owens-Illinois Glass Co., NWLB No. 111-9454 (10-D-582), Region X, 21 WAR LAB. REP. 210 (1945).

\textsuperscript{185} NWLB General Order No. 31, Aug. 24, 1943, § II-C-1(c), reprinted 9 WAR LAB. REP. XVII at XIX, the 10 cents per hour increase must be applied to the basic hourly rate. The 5 cent limitation is to be applied to the basic average straight-time hourly rate. Interpretative Bulletin No. 2 to General Order No. 31 (1944), reprinted in 13 WAR LAB. REP. XIV (1944). Such fund may be reviewed from year to year. See 7 W. H. REP. 667 (1944).

The problem arises, when rate ranges are moved up to the going wage brackets, as to what amount of the increase to individual's resulting therefrom should be offset against the limit provided for in General Order No. 31. Such increase is not to be offset if the weighted average of individual employees' rates within the new range does not exceed midpoint of the new rate range. Any increase to individuals which does raise the average above the widepoint of the rate range must be offset against the limit. See WLB Amended Instructions to Regional Boards: Individual Wage Adjustments Within Changed Rate Ranges, reprinted in 16 WAR LAB. REP. VIII (1944).

\textsuperscript{186} See Interpretative Bulletin No. 2 to General Order No. 31 (1944), reprinted in 13 WAR LAB. REP. XIV (1944).
of the new job whichever is the higher.\textsuperscript{137} Apprentice programs under this plan have had to conform to existing collective bargaining agreements or regulations of federal or state agencies.\textsuperscript{138}

It cannot be denied that this detailed regulation has probably been very effective in preventing the substitution of individual increases for general increases. And while this prevents inflation to some extent, it does not mean that actual individual increases have been rendered non-inflationary. For while there is the general limitation that production costs must not be increased due to individual increases or reclassifications,\textsuperscript{139} a control which has previously been criticized as one-sided, the restrictions imposed by the Model Plan have still left sufficient amounts for individual increases to render them inflationary. On the other hand, it should be pointed out that there is at least some danger that these restrictions instead of regulating individual increases in such a way as to prevent their becoming more inflationary than necessary, may, because of their very arbitrariness limit individual increases so far as to render them ineffective to preserve employee morale and incentive. And this is so, even though employees, in conjunction with their unions, may submit individual wage increment plans of their own for board approval; for the board has usually compared these plans with its Model Plan and disapproved of those that deviated too much from the latter.\textsuperscript{140}

\textsuperscript{137} Except where an employee has special ability. NWLB General Order No. 31, Aug. 24, 1943, (amended) § II-C-2, reprinted in 9 War Lab. Rep. XVII at XIX (1944).

\textsuperscript{138} Apprentice on trainee programs may be changed, however, in the light of increased production, provided such changes are approved by the board. Id. at § II-C-3, p. XIX.

\textsuperscript{139} Id. at § II-D (2), p. XIX. For detailed requirements as to information from employers, see id. at § III. New York Regional WLB: Instructional Bulletin Relating to individual Wage and Salary Increases (1944), reprinted in 14 War Lab. Rep. XXX (1944). This requirement is based on limitations which were imposed by the Economic Stabilization Director. Since these limitations no longer exist with respect to merit increases, the board is expected to remove them as far as they concern this type of increase. 8 W. H. Rep. 265 (1945).

\textsuperscript{140} But the board has recently formulated an alternative plan to that in General Order No. 31. The board will approve automatic progressions from minimum to maximum agreed to by union and employer, “provided that the rates of such progressions are no faster than 12 months for unskilled jobs, 18 months for semi-skilled jobs, and 29 months for skilled jobs.” Or where such progressions are only up to the midpoint of rate ranges, these may be approved “provided that the speed of such progressions are no faster than four months for unskilled jobs, six months for semi-skilled jobs, and 8 months for skilled jobs.” Usually “the regional boards and Industry commissions shall consider” the lowest third of an establishment’s jobs to be unskilled jobs, the middle third to be semi-skilled jobs, and the top third to be skilled jobs. WLB Press Release B-1773, Oct. 2, 1944.
III

Methods of Wage Payment

Methods of wage payment, traditionally established, or providing further employee incentive, such as wages paid in accordance with productive output and bonuses, have as already indicated escaped strict anti-inflationary wage control. However, the board has attempted to impose some form of control so that these wage payment methods do not become too inflationary. Such control has once more been either a one-sided prevention of inflation consisting of maintaining established production costs, or an attempt, as in the case of bonuses, not to permit these beyond the amount absolutely necessary to prevent labor friction. The rather limited control of these methods of wage payment of which one at least resembles very much a general increase in ultimate result, illustrates once more the impossibility of very effective anti-inflation control on the wage payment level.

A. Group Incentive Plans

One of these methods of wage payment that has received increasing board attention is the group incentive plan. Despite traditional labor opposition to incentive systems of wage payment, the group incentive plan, which provides for general wage increments in proportion to a rising level of production, usually within a single plant, resulting from increased employee group effort, has become increasingly popular.

And since the Grumman Aircraft case, the board has tried to develop criteria for approval of such plans that would pre-

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141 See for example 25 A.F. OF L. REP. OF PROCEEDINGS 105 (1905); 29 id. 212 (1909); 33 id. 384 (1913); 34 id. 83 (1914); 35 id. 106 (1915); 36 id. 92 (1916); 38 id. 121 (1918); 39 id. 121 (1919); 40 id. 119 (1920); 41 id. 119 (1921); 42 id. 109 (1922); 43 id. 295 (1923); 44 id. 294 (1924); 46 id. 393 (1926); 53 id. 475 (1933).

142 Formal labor opposition continued. 63 id. 411 (1943); Orders by Clinton S. Golden, Assistant to the President of the United Steelworkers of America before New York Chapter of the Society for the Advancement of Management, Nov. 20, 1943. The United Automobile Workers also expressed opposition. 6 W. H. REP. 971 (1943). But such plans have been accepted by unions since they provide opportunity for increases beyond those permissible under other wage stabilization criteria.


144 General Order No. 38, Nov. 2, 1944, Press Release B-1813, reprinted in 7 W. H. REP. 1037 (1944) requires that the institution of a new incentive wage or piece rate, the extension of an established wage or piece rate (one in existence prior to Oct. 3, 1942, or one approved by the national board since that date, or placed in effect without approval pursuant to General Order No. 6) to departments not yet covered thereby, or the change or modification of an established incentive rate, be approved by the board except where the rate is changed to reflect a change in method, product, tools, material design or production conditions.
vent these from resulting in "hidden" wage increases contrary to wage stabilization policies. Such criteria required merely that any plan must be submitted by both employer and union in conjunction, and that it must not raise the level of production costs. Of course, such plans had to be based on employee group effort, and increases based on increased output due to changes in machinery or expansion of personnel have not been permitted. Such plans, consequently, had to contain provisions for the resetting of piece rates whenever changes are made in methods, tools, materials or products.

Actually such criteria for approval represent an additional and more lenient general wage increment formula; for group incentive plans culminate in general increases which are merely made conditional on greater group productivity. How different such group incentive plans are from individual incentive systems is illustrated by the fact that such

145 But once submitted, later union opposition will be ineffective in removing the plan unless it can be shown to be unworkable and unfair. In re Standard Register Co., NWLB No. 111-3729-HO, Region V, 8 W. H. REP. 232 (1945).
146 See Instructions by Wage Stabilization Director of Regional War Labor Board XI (1943) reprinted in 13 WAR LAB. REP. XXX at XXX-XXXI (1944); Boston RWLB; Policy on Wage Incentives (1944), pt. I § 6, reprinted in 15 WAR LAB. REP. LVIII at LIX (1944); In re American Tool Works Co., NWLB No. V-D-43 (111-564-D), Region V, 11 WAR LAB. REP. 652 (1943) (incentive earnings increase, where increase of production due to expansion of personnel held not exempt from Little Steel formula). The converse, however, does not seem to have been established and workers have been denied increases in piece rates where there has been a decrease in earnings as a result of decreased output to deteriorating machinery. In re Corwin Cotton Mills Co., NWLB No. 111-1100-HO, Region IV, 13 WAR LAB. REP. 554 The Detroit Regional Board has declared, however, that opportunity for earnings must be maintained. Instructions by Wage Stabilization Director of Regional War Labor Board XI (1943), reprinted in 13 WAR LAB. REP. XXX (1944). See also Boston RWLB; Policy on Wage Incentives (1944), pt. II, reprinted in 15 WAR LAB. REP. LVIII at LX (1944).
147 Detroit Regional War Labor Board: Policy on Incentive Systems (1944) § 8 reprinted in 13 WAR LAB. REP. XXIX (1944); Boston RWLB; Policy on Wage Incentives (1944), pt. I § (2), reprinted in 15 WAR LAB. REP. LVIII at LIX (1944). Tentative rates may always be changed without board approval. But under the Boston regional board instructions, no plan is permanently approved until six months after its operation and the submission of two reports to the board for approval at three-months intervals.
148 Regional Boards, however, have required that incentive plans meet stricter criteria more in keeping with their general wage increase nature. Thus the Chicago board requires that plan should not unstabilize wages in the area, nor result in intraplant inequalities. "RWLB Standards for Incentive Wage Plans," 7 W. H. REP. 20. (1944) On the other hand, the actions of the Cleveland board clearly illustrates how wage incentive plans might violate general wage increase criteria. The board allowed the minimum going wage rates as the worker's guaranteed wage with the worker's base rate and earnings left undisturbed. Thus a worker might have a base rate of $.70 an hour, earn $1.00 an hour under the incentive plan, while his guaranteed wage is $.80 an hour, the area going wage minimum. 7 W. H. REP. 41 (1944).
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group plans provide for general increments even to non-production workers in relation to the rise of productivity. And such plans have been approved by the board; 149 for example, non-production workers in the Westinghouse Electric Company are given an increase varying in amount from plant to plant, as the efficiency of the incentive production workers exceeds the production standard by 15 per cent, the payment to non-production workers being somewhat smaller than that received by the production workers. 150

Despite resemblance of the group incentive plan to a general wage increase system, their control from the point of view of preventing inflation is the one-sided maintenance of production costs, employed in the case of individual increases. From a practical point of view, however, these increases serve the purpose of increasing production, 151 which also forms the basis of most individual increments. And where these increases do not constitute genuine rewards for productive effort they have not been permitted. It follows, therefore, that the permission of these increases seems justified, unless some non-inflationary method for achieving increased productivity can be discovered.

B. Bonus Payments

The control of bonus payments has largely been based on the policy of avoiding labor friction. To this end bonuses that had been part of the wage structure in the past were exempted from the requirement of board approval. 152 Such payments, therefore, have not been permitted to exceed the fixed total amount paid to an individual during the preceding bonus year for like work, 153 or if paid on a percentage or incentive basis the rate and method of computation may not be

149 In re Firestone Rubber & Metal Products Co., NWLB No. 111-1910-D, Region XI, 14 WAR LAB. REP. 621 (1944); In re Pittsburgh Des Moines Co., NWLB No. 25-548-A, Shipbuilding Commission, 14 WAR LAB. REP. 491 (1944); Lehigh Structural Steel Co., NWLB No. 35380, Region III, 12 WAR LAB. REP. 339 (1944).


151 Nickerson, "Why Wage Incentives Work," 1 PUBLIC OPINION QUARTERLY 391 (1943); Address before American Society of Mechanical Engineers, December 1, 1943. During two months of operation of forty-nine plans approved by the Regional War Labor Boards production increased on the average of 27.9 per cent above standard and 41.5 per cent above past performance.

152 NWLB General Order No. 10, Nov. 6, 1942, § 803.10(a), reprinted in 4 WAR LAB. REP. XXIV (1943).

153 Id. § 803.10(a) (1), p. XXIV; In re Longhorn Portland Cement Co., NWLB No. 111-2115-D, 11 WAR LAB. REP. 588 (1943); See for example, the recent summary of New York rulings in MANUAL OF BONUS RULINGS BY NEW YORK REGIONAL BOARD issued Nov. 30, 1943, Questions 6-11, reprinted in 12 WAR LAB. REP. XLI at XLII (1943).
changed. And no board approval is required for bonuses not exceeding 25 cents in cash value.

Where the criteria for permitting bonus payments without board approval concerned payments of fixed total amounts, the resulting anti-inflationary control has been complete, for the yearly wage level of employees has not been permitted to change. Where based on a percentage basis, however, the control is at best the one-sided one of maintaining production costs, which can be justified only on the basis of the incentive provided by such bonuses.

The incentive which they provide would also justify bonuses that have been approved by way of compensation for increased work loads. However, bonuses that have been approved because if not paid they would constitute a “manifest injustice,” cannot be justified either as aiding in complete inflation control or as providing necessary incentives. Such a case would arise where an employer in paying a bonus the preceding year “inadvertently” left out a group of employees. The new bonus to this group of employees probably avoids labor friction, however, and may thus be explained. Indeed, this theory also serves as a generic explanation for the emphasis on traditional bonuses and the allowance of bonuses to compensate for increased work loads. The board’s bonus policy may, therefore, be said to permit payments which would smooth over any undue labor friction that might have been caused by application of the wage stabilization program, unless such payments are grossly inflationary.

\[154\] NWLB General Order No. 10, Nov. 6, 1942, § 803.10(a) (2), reprinted in 4 WAR LAB. REP. XXIV (1943). See for recent example, In re Longhorn Portland Cement Co., NWLB No. 111-2115-D, 11 WAR LAB. REP. 588 (1943) and the recent summary of New York decisions in Manual of Bonus Rulings by New York Regional Board, issued Nov. 30, 1943, Questions 12-16, reprinted in 12 WAR LAB. REP. XLI at XLII (1944). Bonuses as rewards for production ideas may also be given without board approval. Letter by John B. Chamberlin, Assistant General Counsel of the War Labor Board to Channing Dooley, Director of Training Within Industry, War Manpower Commission, Aug. 30, 1943, reprinted in 10 WAR LAB. REP. XXXV (1944). Where a bonus is computed on a percentage or similar basis and this method yields a smaller amount for the current year than was paid in the preceding year the employer may if he chooses, pay in 1943 the same total amount that was paid in 1942.

\[155\] 7 W. H. REP. 1072 (1944).


\[158\] Other criteria for the approval of bonus payments applied by the board are, that they conform to the practice prevailing in the industry and area before October,
Conclusion

From what has been said up to now it is already clear that inflation control on the wage payment level is far from perfect, and that its imperfections are not easily remedied, for they seem inevitable consequences of broader economic considerations that must be heeded by the regulatory agency. The available statistics corroborate this finding. According to a recent study weekly manufacturing payrolls for wage-earners from January 1939 to January 1944 have increased by approximately 250 per cent or $439,125,000, bringing the total up to $617,300,000. This increase did not occur entirely before wage stabilization; for, from the middle of 1943 when wage stabilization was well under way, to January 1944, the total manufacturing weekly payroll rose by approximately $21,200,000. To a large extent factors such as overtime premium pay, which, as has already been noted, have not been too stringently controlled, account for this increase. The total payments for overtime premium pay rose from approximately $2,000,000 weekly in January 1935 to $41,600,000 in the middle of 1943 and $43,600,000 in January 1944. Thus in spite of wage stabilization, the relative importance of this component payroll factor did not diminish, but actually increased. Factors such as intra-industry upgradings, incentive payments, increased piece rate earnings, which, as already mentioned, are also not subject to stringent wage control, account for 32 per cent of the increase in payrolls.

In addition, factors not heretofore emphasized, which also are not subject to control at the wage payment level went to make up a great part of the remainder of the overall increase in payrolls. Redistribution of employees, so that more were working at higher paying jobs than those at which they had been working in January, 1939 would pay, account for 11 per cent of the payroll increase. Increases in the average workweek account for a $72,000,000 increase in weekly payrolls. Since $61,555,000 of this increase occurred in war industries, i.e., benefited those for the most part not engaged in the production

1942 and that they do not create unequities in existing rates paid for similar work. "Vacation Award on Little Steel Basis," 7 W. H. REP. 1072 (1944). Where these are strictly applied the bonus is not in a much better position than the General Wage Increase, except for the Little Steel formula. The only reason for exempting it then from wage brackets is the fact, heretofore noted, that many bonuses are not included in bracket determinations.

Bratt and Danhoff, "Components of Wartime Wage Changes," SURVEY OF CURRENT BUSINESS, Sept., 1944, p. 17.
of consumer goods, the increase is substantially inflationary. And finally, increased employment, again occurring primarily in war industries, accounts for a very large part of the overall increase.

While these figures seem to indicate that the American worker has fared far too well despite wage stabilization, it must not be forgotten that imperfections in the wage stabilization pattern adopted by the board are such that inflation control has been stricter with respect to some workers than others, who have been more frequently involved in situations affecting "inequalities" and incentive and morale aspects of existing wage patterns. Though all that can be gathered from the overall statistics is a greater proportionate increase in war, as compared to non-war, and in manufacturing compared to non-manufacturing industries, it is undoubtedly true, that many workers have had their wages controlled by the Little Steel formula, without being able to take advantage of its many necessary loopholes. Labor's objection to the 15 per cent limitation\textsuperscript{160} of the formula seems therefore not to be entirely unjustified. This is especially so, since the cost of living has risen 23.4 per cent\textsuperscript{161} and 43.5 per cent\textsuperscript{162} from January 1, 1941 to December, 1943 according to the findings of the Bureau of Labor Statistics and those of labor unions respectively; and the President's Cost of Living Committee has reported a rise of 30 per cent.\textsuperscript{163} At least, those workers who cannot benefit from increases exempted under the formula must have suffered a loss in real wages, due to this discrepancy.

On the other hand, the solution offered, namely a general upping of Little Steel formula to let's say 20 or even 30 per cent seems most inadequate. First, unless accompanied by a general disruption of present wage brackets, it would effect little change, since, as earlier indicated, it is the current practice not to permit Little Steel increases beyond bracket maxima. Second, if it is at all feasible to effect a general change in present wage brackets, then the result sought should reach beyond that accomplished by the mere upping of the formula. For a mere increase in the total maladjustment allowance cannot eliminate many of the contradictions of the wage stabilization program heretofore noted. A new arbitrary limit merely allows further inflation


\textsuperscript{161}MEANY AND THOMAS, Cost of Living, 5 (1944).

\textsuperscript{162}The Cost of Living Index, Bureau of Labor Statistics Bull. (U.S. Dept. of Labor, 1944) i, 1.

but does not gear the new wage increases to the rise in the cost of living in particular communities or for particular occupations requiring work clothes and tools, the price of which has increased beyond the national average. Nor does this higher limit integrate the board’s equalization policy as represented by the bracket system. Such an integrated wage stabilization program does, however, suggest itself as a result of the analysis earlier presented and is here offered in its broad outlines without any judgment as to the administrative difficulties of effectuating it, or the desirability of doing so at this stage of the war.

First, regional war labor boards should undertake careful studies to discover labor market areas of potential labor migration which might constitute a neighborhood as found in a recent New England study or include broader areas. Certain industries, such as the non-ferrous metals and transit industry, for example, should be exempted from these areas, and labor market areas extending over several states might be designated for them. As factors of potential labor migration become less significant with the advent of peace, such considerations as the administrative feasibility of industry-wide wage administration as advocated by the Congress of Industrial Organization might occasion a shift from geographical to functional labor market areas and preparation therefor might begin now.

Second, a maladjustment allowance based on the actual increase in the cost of living in the labor market area since January 1941 should be determined. And this maladjustment percentage should be added to the January 1941 take-home pay of each worker, or to what can reasonably be estimated as the amount he would have received had he been doing the same work in January 1941, provided that where such take-home pay is substandard, the percentage allowance be applied to an earning base that under local conditions would provide for adequate health and decency requirements. This will give us the permissible wage of each worker in the area.

Third, occupations in each area should be classified in terms of job evaluation descriptions with point evaluations assigned to each in terms of factors earlier mentioned, and a curve, $A$, should be constructed to show adequate differentials between occupations in the area. The permissible wages should then be averaged per occupation per area, as

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165 The Board is of course aware of the problem and ready to make changes in the appropriate direction when the proper time comes. See 8 W. H. Rep. 193, 194; see also note 90 supra and cf. In re General Motors Corp., NWLB No. 111-4665-D, 8 W. H. Rep., p. 287 (1945), which indicates the board’s willingness to, at least, study the question.
determined by the earlier job evaluation program. This will yield a curve, \( B \), of permissible wages for the labor market area.

Finally, on the basis of the “going” take-home wages in one or two key occupations among a group of related jobs in an area, the job classification curve, \( A \), previously described, may be translated into the proper money wages per occupation, but adjustment must be made in such a way that the resulting money wage curve, \( C \), nowhere exceeds the permissible wage curve, \( B \). The curve, \( C \), represents the maximum take-home money wages that may be paid in an area and should in the future simply be adjusted upward in accord with further average increases in the cost of living of the area. Overtime, bonus and other incentive money payments would now be included within the wage designated by curve, \( C \). Where further incentive payments, etc. are required by production needs, these should be in non-negotiable war bonds, or should go into employee trust funds, long advocated by both unions and employers but apparently rejected by the board. Of course these payments must never result in higher prices for the goods produced, especially if these are consumer goods, though it probably would be reasonable in many instances, to endorse this price maintenance by a reduction of employer profits.

The suggested program does not, of course, do away with most of the inadequacies of inflation control on the wage payment level. Effective and more uniform economic stabilization can only be achieved by price control, rationing and taxation, outlined by the President in April 1942, but up to now, inadequate in practice. And such controls should probably be coupled with attempted reorganization of wasteful processes in the production and distribution of consumer goods, a technique seemingly neglected by the governmental program.

166 The weakness is indicated by the OPA’s seeming lack of control over quality deterioration, or upgrading of existing goods coupled with a disappearance of low-priced items, Meaney and Thomas, The Cost of Living 9, 34-38, 51, 104, 89-90 (1944); by the great number of violations of OPA regulations, id at 70; and by the number of factually authorized price break-throughs, id. at 66. Of course, in the last analysis the failure of price control is found in the undisputed fact that living costs have risen. See notes 154, 155, and 156, infra.

167 As to the adequacy of taxation, see Hearings on H. R. 7372, 77th Cong. 2d sess. (Senate Committee on Finance) (1942), 2200, 314; Hearings on S. J. Res. 161, 77th Cong., 2d sess. (Senate Committee on Banking and Currency); Groves, “Taxes, Too Little and Too Late,” New Republic, Oct. 12, 1942, 454. Ruttenberg, “Wages and the Cost of Living,” New Republic, April 10, 1944, 489. As to suggested taxation techniques, see Shoup, Friedman, Mack, Taxing to Prevent Inflation (1943), especially Part II; and a study of British techniques, 52 Yale L. J. 400 at 410-415 (1943).

167 See, Hamilton and May, The Control of Wages (1927).