

FRED DENSON

At age 36 Fred Denson was the youngest person to serve as a member of the Public Employment Relations Board when he succeeded to the seat previously occupied by George Fowler. But Fred was hardly a newcomer to PERB.

A 1959 graduate of the Rensselaer Polytechnic Institute, with a degree in chemical engineering, Fred served as a first lieutenant in a tank battalion in the US Army, worked in the private sector and completed his law degree at Georgetown before joining the PERB panel of per diem mediators and fact finders after completing his training there in 1969. At that time and with a brand new public sector law governing bargaining still in its infancy, Fred found himself thrust into the forefront of main line public sector dispute resolution. It was a time when the law's tradeoff between prohibitions against public employee strikes in return for their right to engage in collective bargaining was tested on a daily basis and that environment quickly seasons a tyro neutral. An early such struggle was a strike between the Rochester City School District and its teachers, an imbroglio that consumed Fred and PERB staff mediator Ernie Franke for almost two weeks.

Following the passage of the Taylor Law in 1967, the PERB Panel of Neutrals was created to meet the statutorily driven obligation of the Board to actively assist public sector employees and employers in their collective bargaining activity. The fact that almost no such bargaining had occurred prior to 1967 and for sure none within the carefully constructed parameters set forth in the Taylor Law, meant that a vast range of dispute settlement techniques had to be employed to achieve labor harmony in the public sector. There, without the compulsion of legal strikes, which has been a prime incentive for resolving disputes in the private sector, parties in the public sector in New York relied heavily on the procedures set up at section 209 of the Taylor Act (Public Employees Fair Employment Act) and the imagination of the neutrals who administered those provisions to find ways to resolve impasses.

To fulfill its mission PERB recruited both a dedicated full time staff and dozens of professionals drawn largely from the legal and professorial ranks to serve on its per diem fact finding, mediation and conciliation panels. During extensive training of these neutrals, often at the ILR School of Cornell University, friendships were readily formed. For Fred, that included Rochester natives Alice Grant and Jean McKelvey, significant members of the ILR Faculty and its Extension Division. Fred credits these friendships with his appointment to serve on the PERB Board for it was through them that he was introduced to Governor Rockefeller and Governor Malcom Wilson who nominated him for the PERB Board. There, a shuffling of appointments in aid of Bob Helsby's Chairmanship of PERB resulted in Fred serving a three year term.

Fred cites an inscription on a clock given him by Chairman Helsby and fellow Board member Joseph Crowley at the end of his term on the PERB Board in describing his relationship with his colleagues, Helsby and Joseph Crowley. The clock states, "To a fine colleague and friend". Fred said that the practice followed on Board meeting days was

for Helsby to meet the two other Board members and the three would go out for breakfast. There, instead of talking about cases and administrative matters, they would instead talk about family and personal concerns, about the kind of things that bring people into each other's embrace, talk which builds trust and respect for each other. Surely, it's hard to imagine time better spent for people entrusted to bring wisdom, judgment, and perspective to bear on the administration of the public's business.

Fred said that Joseph Crowley brought a deep academic understanding of collective bargaining to the Board's deliberations. Bob Helsby, a superb administrator, was totally committed to maintaining PERB's neutrality and non-partisanship even to the point of resisting efforts to relocate its offices nearer to the Governor's office in downtown Albany. Fred brought diversity and a practical "street smart" perspective to the Board's work, regularly reminding it of the immediate and very consequential impact its decisions had on the lives of working New Yorkers and upon its tax payers. Fred's "street smarts" were acquired through various life experiences including his growing up around the steel mills in the Pittsburgh area, his serving as the interim Executive Director of the Rochester Urban League in the early 1970s and his decade long stint hosting a weekly public affairs television program focused on Rochester's minority community and carried by Rochester's ABC affiliate.

Fred said that a "wild west atmosphere" prevailed during his tenure on the Board. He described the unions as "pioneers" trying to stake their organizational claims to collectively represent employees, and the Native Americans as the employers trying to protect their managerial rights turf. PERB's role was akin to Wyatt Earp, the sheriff trying to maintain law and order in the old western frontier days.

Fred described the Board's decisions as "evolutionary" in that they attempted to adjust to new challenges in ways which maintained the delicate balance required for genuine bargaining to occur. An example was the *Triboro Decision*¹, an effort to maintain the status quo in terms and conditions of employment after the expiration of the contract. Prior to *Triboro* the Board attempted to balance employer/employee interests through the use of precedent and stare decisis. Another effort at maintaining a proper balance was in determining appropriate state-wide bargaining units wherein the Board divided the employees into five bargaining units², a decision driven by its desire to maintain consistency in the kind of work being performed within the units, the size of the units themselves and their ability to bargain effectively. Fred was actively involved in writing the original Rules of Procedure for PERB's arbitration matters.

The years surrounding Fred's service on the Board were precedential by themselves and included significant adjustments by clients appearing before it such as the merger between NYSTA, the American Federation of Teachers and NEA. The early years of the Taylor Law in New York and the passage of public sector collective bargaining laws in other states initiated a gradual shift in organized labor toward the public sector at a time when the private sector was in decline. Catastrophic events occurring

¹ 5 PERB 3037

² 1 PERB 399.85

elsewhere, such as the War in Viet Nam and the convulsions of Watergate leading to Nixon's resignation in August 1974, gave the period a distinctly historical significance.

Since leaving the PERB Board Fred has continued to apply skills learned through his association with PERB. A member of the National Academy of Arbitrators since 1976, Fred has pursued a career as a labor arbitrator. A forty year plus member of the Presbyterian Church (USA), Fred has utilized his skills in conflict resolution to aid the church in governance and leadership issues. He served for several years as the head or moderator of the Permanent Judicial Commission – the denomination's ecclesiastical Supreme Court – several years as chair of the denomination's mission agency responsible for its national and international mission activities and ten years on the Board of Trustees of San Francisco Theological Seminary. His leadership roles in the Presbyterian Church and his reputation for thoughtful, religious analysis has resulted in Fred being invited to speak at churches. During his travels, Fred was often times accompanied by Catherine, his wife of 56 years prior to her passing in 2016.

Fred Denson was part of a historical epoch in the evolution of labor relations in New York State under the Taylor Law. Lessons he learned during that service have been applied by him in other contexts where he has been an advocate for the peaceful resolution of conflict.

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