

PROCEDURAL PENALTIES (PPs)

When duplicate contract bridge started up the lawmakers went to the rubber bridge laws as a markup for a duplicate bridge version. One thing they realized right away was that there are many procedures in duplicate that do not apply to rubber bridge..

Ely Culbertson's *Gold Book*, 1st edition 1936, provides the Laws of Contract Bridge followed by the Laws of Duplicate Contract Bridge, which consists only of changes from the former. He wrote: "The special conditions under which Duplicate Contract Bridge is played require that a special code of laws be used." Included was a section entitled "Disciplinary Penalties," listing typical offenses that could be penalized. That list has not changed materially over the years. It includes only irregularities not penalized by other Laws, and all are in the nature of duplicate-peculiar procedural errors, e.g., passing the wrong boards.

The title of that section remained "Disciplinary Penalties" thru the 1963 edition, but then someone realized that the word "disciplinary" is inappropriate, because discipline usually involves ethical irregularities, not procedural irregularities. To make this clear they changed the title of the section to "Procedural Penalties" in 1975, with no significant change in content. No one seems to remember this, as PPs are now being used for disciplinary purposes.

Now, for all the years up until the 90s, nobody in ACBL-land ever assessed a PP for an ethical violation at the table (e.g., blatant Unauthorized Information (UI) or Misinformation (MI)). Then a prominent European tournament director started using PPs for *any* irregularity that was not punished, or not punished sufficiently, in his opinion, and the practice has spread. The UI and MI laws do not cross-reference Law 90, suggesting a PP for blatant offenses, and rightly so. Ethical violations should be handled outside the game, not within the game. Law 91 is there for situations that can't wait and must be handled immediately. Those misusing Law 90, perhaps enjoying such power, or too lazy to handle them correctly, preferred punishing ethical transgressions immediately with a PP. That's a lot easier than writing up something and filing it. Shortly this custom was taken up by the ACBL NABC Appeals Committee, but our Tournament Directors (TDs), to their credit, haven't been employing PPs much, if at all, for ethical misbehavior.

Suppose a pair uses UI in a blatant fashion. As in rubber bridge (the parent game, which should be a guide when possible), the score column should not be affected. Ethical violations should be written up on a Player Memo (PM), that's what it's for. These are filed away, and when a player gets too many s/he can be hauled up in front of a Conduct & Ethics committee. PPs, on the other hand, are not recorded. Repeat offenders are not controlled by them, as they are by PMs. The UI and MI laws provide remedies for UI and MI irregularities, but the AC seems to feel that when there is no damage the guilty should be punished somehow if the crime was blatant, so they issue a PP. When there is damage, resulting in an adjusted score, they will often tack on a PP. It's as if they consider that the lower-numbered laws are deficient in handling irregularities. The majority of PPs that they have issued should have been PMs instead.

As I said, rubber bridge is the parent game, and duplicate bridge should retain its principles to the greatest degree possible. In rubber bridge ethical violations are dealt with outside the game, not by taking points off the score sheet, and duplicate bridge should do the same.

Just think, for 60 years PPs were not used for discipline, with the title of L90 changed to make it clear

that they should not be, but now they are. There is no precedent for this, nor are they so used in the great majority of regionals, sectionals, unit games, and club games. Some will argue that Law 90A's "violates correct procedure" extends to blatant UI, MI, etc. The Introduction to the Laws says they ...” are primarily designed not as punishment for irregularities, but rather for the rectification of situations where non-offenders may otherwise be damaged" That should make it clear that discipline is not a matter for the Laws, with "primarily" stuck in because of Law 91, not Law 90.

When necessary to "maintain order and discipline," Law 91 empowers a Director "to assess disciplinary points or to suspend a contestant..." Law 91 is invoked only when an offense requires immediate action because the game is being seriously affected. The ACBL uses Law 91 to punish Zero Tolerance offenders, for instance, as abusive behavior must be handled immediately lest it continue. PPs are not used for this purpose.

Some will point to Law 90B's "not limited to" as allowing PPs for anything. That's a stretch. Whenever someone provides a long list that cannot be exhaustive, they will often precede it with "not limited to." However, "and the like" is to be understood for such lists, and it should not be necessary to add that. Law 90B's list is long, and would include blatant ethical violations if Law 90 is applies to them. The widely-recognized legal principle involved is *ejusdem generis* (of the same kind). You can't punish anyone for something not in the nature of the items on such a list, and none of Law 90B's examples of offenses are ethical in nature.

One more place the PP enthusiasts pointed to is Law 74C, Violations of Procedure, which includes a number of ethical violations. Until 1997 this section was entitled "Breaches in Propriety," but then some misguided soul changed the title (with no change to the contents) for no good reason. Law 74C contains no mention of PPs for violations, which would be a normal cross-reference if that was intended. Law 73F covers breaches of propriety that damage opponents, and the remedy is only an adjusted score, with no mention of PPs. Law 74 covers Conduct and Etiquette, describing violations in 74C but providing no remedy. Of course not, they are matters for disciplinary remedy outside the game, not within the game.

In effect, PPs have come to be punishments for being involved in an NABC appeal, as that seems to be the only time they are issued. If ethical transgressions are to be punished with PPs, then all of them should be, not just those that end up before an Appeals Committee or TD Panel. Every time I see an opponent use UI illegally, but also see that we haven't been damaged, I should logically call the TD so he can assess a PP. No, that's not the way to handle it, which is for me to write a PM. PMs merely report behavior, they are not accusative, and their use should be encouraged. Repeat offenders can be talked to by the Recorder, who files the PMs. If the Recorder thinks it necessary, they can be brought before a Conduct and Ethics committee.

I urge that PPs be used only for offenses typified in Law 90B, both in accordance with the universal legal principle of *ejusdem generis* and with common sense.

