A SURVEY OF EMPLOYEE UNIONISM IN THE UNITED STATES GOVERNMENT WITH COMPARISONS WITH EMPLOYEE UNIONISM IN THE CENTRAL GOVERNMENTS OF SELECTED ENGLISH SPEAKING COUNTRIES

by

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CHAPTER I

INTRODUCTION

Organization of the Thesis

An initial part of this thesis will be devoted to reviewing the historical development of unionism in the United States Government. Though the story has been told many times before, it is necessary to review it here so that there is a clear perspective as to the factors which contributed to the formation of unions of government employees. It is not uncommon to hear the opinion expressed that there is no need for unions among government employees. This contention can best be refuted if some of the evils that existed in the conditions of employment of government workers in the past are chronicled.

The development of unionism among government employees and of the Government's policy toward employee organisations has been evolutionary in nature; thus, one sees little difference from one presidential administration to the next. For example, probably in no field of policy was there less difference between the Hoover and

Roosevelt administrations than in that regarding Government labor policy relative to its own employees. This was in sharp contrast to the vast changes in the Government's labor relations policy as it related to the private sector of the economy.

An exception to the generalization that there has been little change from one administration to the next is found in the Kennedy administration. Shortly after entering office, President Kennedy appointed a task force consisting of high Government officials to study the Federal Government's employee-management relations. A rather thorough study followed and a comprehensive report was submitted. Subsequently, on January 17, 1962, the President issued Executive Order 10988 which promulgated a comprehensive and relatively liberal labor relations policy for the Government. A large part of this paper will be devoted to a review of the task force study and of the changes in policy that resulted from the implementing executive order.

Attention will be devoted to employee-union experience in the governments of Great Britain, Canada, and Australia to determine the forms that their labor relations policies take and to see what we can learn

from their experiences. It is most appropriate that we view these nations because of the common heritage that we share with them.

The final chapter of this thesis will deal with what changes are desirable in the course of employee-management relations in the Federal service with a discussion of the economic, political, and social factors which may influence the future direction of Federal employee-management relations.

Setting the Problem

The Government employee is faced with a continual barrage of demands from his employer, from political leaders, from the news media, and from an almost infinite number of private organizations to be patriotic, to be efficient, to be civic minded, and to maintain an integrity, which like that of Caesar's wife, is beyond reproach. He is patriotic. He is efficient. He is civic minded. He does possess integrity. But he must often ask himself: Why am I so often maligned? Why am I subjected to a double standard? Why am I expected to be a better citizen than others?

The answer is that the responsibilities of an employee have been confused with those of a citizen. An employee is morally obligated to perform his work in an efficient and satisfactory manner regardless of whom his employer might be. A citizen is morally and in some cases legally obligated to meet his responsibilities as a citizen regardless of whom his employer might be. This is not to say that an employee of the Government necessarily possesses all of the rights of a privately employed person. He does not as will be shown later. But this is not because he has greater obligations or responsibilities. It is because the State has a greater responsibility. Thus, the State may limit the rights of its employees so that it more effectively discharges its responsibilities.

What significance does this dialogue have to the study of employee unions of government employees and of the Government's policy toward them? The significance is that it demonstrates that it is unrealistic to expect an employee to be a completely selfless representative of the State. By nature, he has his own aspirations, his own needs, and his own responsibilities to himself and his family which are no different from those of his brother in private industry.

He rushes home at night to his family and is faced with worries about the mortgage on his house, the monthly installments on the appliances, and how he is going to finance his children's education. In short, he is faced with the same economic and social problems as his counterpart in industry.

There must be a means available for the employee to effectively pursue his aspirations and to promote the well-being of himself and his family. Prior to the establishment of the civil service system, the government employee relied on political connections to secure his aspirations. When the spoils system was eliminated, the politician's interest in the well-being of the government employee lessened. Thus, unions were created to provide a means for the employee to protect his interest. Within this framework of employee unionism there are several avenues of approach open including political action, direct action such as the strike, appeals to the public's instinct for fair play, and collective bargaining. Some of these avenues have been closed or limited by legislation.

It is not only important to the employee that he have a means to pursue his aspirations. It is vital to

the State because if a means is not available to make government employment comparatively attractive to that of non-government employment, the quality of the public service will suffer. Roughly one-sixth of the nation's gross national product is expended by the Federal Government. It would be exceedingly foolish for the Government to pursue personnel policies that will have the effect of having an incompetent work force carrying out the public business.

Approach, Assumptions, and Limitations

The basic approach of this paper may be labeled as pragmatic. Thus, limited attention will be devoted to the philosophical questions such as the sovereignty of the State or the right to strike. Two points strongly support this limitation. First of all, the American labor movement has historically been a pragmatic one, avoiding in large part the doctrinaire outlooks of the European labor movement. Secondly, the very nature of government demands a pragmatic approach. Governments are instituted in societies to serve the basic need of creating and maintaining public order. In all systems, whether totalitarian or democratic, this need is paramount and must be achieved if chaos is to be avoided. The power

structure of society will by necessity attempt to insure the State's integrity. In doing so, scant heed will be given to philosophical dogmas.

Two basic assumptions are accepted at the outset of this study. First of all, the sovereignty of the State is accepted as complete; however, that sovereignty does not necessarily preclude a free labor movement of government employees as long as there is no challenge to the State's ultimate sovereignty. Secondly, it is assumed that the right to strike is not compatible with the principle of the sovereignty of the State and thus is not a legitimate action by organizations of Federal employees.

Sovereignty of the State

The State is sovereign. It may legally impose unilateral solutions in controversies with other segments of society. In the United States, our form of government with the system of separated powers and checks and balances, may modify this contention slightly. Thus, the sovereignty of the State may be less than complete when there is not uniformity of agreement between the executive, legislative, and judicial branches. When the three are in agreement the State's sovereignty is

complete and even the Constitution is not an effective limit on its power. Some would question this reasoning on the basis that the State and the Government are not the same. While this may be true in some countries, it is difficult to distinguish between the two in the United States. Distinctions may be drawn in philosophical discourse but not in practical application.

The sovereign state may "...unilaterally prescribe the terms of public employment. It may formally recognize, indifferently tolerate, or unreservedly suppress all forms of organization among its employees."[1] The option is with the State. If the State should decide to formally recognize employee organizations and to enter into extensive consultation or negotiation with them there is no derogation of its sovereignty since it retains the ultimate authority to resolve disputes between itself and the employee organizations. Expressed simply, the State retains an absolute veto. "A sovereign power which is exercised intermittently or periodically is not by that fact less supreme. Its supremacy does not inherently require a perpetual assertiveness."[2]

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[1]Morton R. Godine, The Labor Problem in the Public Service, Cambridge, Harvard University Press, 1951, p. 42.

[2]Ibid., p. 60.

The Right to Strike

The right to strike is expressly denied to employees of the United States Government.[3] Even if this were not so, an employee of the Federal Government would have no right to strike since the strike is not compatible with the principle of the sovereignty of the State. This is not to say that there have not been strikes against the Federal Government or that strikes may not occur in the future, but any such strikes are legally indefensible and the State theoretically may use such force as is necessary to end any strike. But now let us turn from a philosophical view of the strike to a more practical view.

Though illegal, the strike may be an effective weapon by government employee unions under certain specific and very limited circumstances. What are these circumstances? The prime requirement, in fact an absolutely necessary requirement, is that the public be convinced that the employees are being treated in a wholly unfair manner. Secondly, it must be evident that the employees have suffered unjust treatment for a prolonged period of time and that they have exhausted

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[3] 69 Statutes at Large 624.

all other means of achieving relief. Thirdly, the strike must be conducted in such a manner as not to endanger the health or safety of the nation, else public sympathy for the employees may quickly turn to resentment.

If sufficient public support can be rallied, the employees may in fact win their strike even if forced to appear defeated. The Government quite likely will agree to acceptable compromises designed with appropriate face-saving devices and all will be well. If the Government chooses, it may crush the strike even in the face of public support for the strikers. In doing so, however, it may be well be exposing itself to the voters' wrath at the next election. Few politicians will willingly assume this risk if presented with an acceptable alternative.

On balance, it must be restated, however, that government employees have but limited opportunities to use the strike as a weapon to secure their objectives. In the absence of compelling reasons, the public will react against rather than for a strike by government employees.

Since the State, in its sovereignty, asserts the right to unilaterally prescribe the terms of public employment and since it denies to its employees the

right to strike in pursuit or defense of their interests, it has a moral obligation to pursue a fair and enlightened personnel policy which assures its employees essentially the same opportunities and rewards enjoyed by the nation's work force in general. History does not show that the State has been completely fair and enlightened in dealing with its employees when left to its own devices. Perhaps Lord Acton was correct in saying that "absolute power corrupts absolutely." Perhaps it may be asserted that in a democratic society, it is vital that elements exist that restrict the absoluteness of the State. Unionism is one of these elements. A central problem to be faced in this paper will involve determining the bounds within which unions of government employees may function in protecting and furthering the interest of the worker. Therein is the most important and difficult problem in developing a program of employee-management relations for the Government.

CHAPTER II

THE DEVELOPMENT OF EMPLOYEE UNIONISM

There are three broad categories of employee unions in the United States Government. They are the traditional craft unions which are also found in private industry, the postal unions, and the general government unions. It is the latter of which one often tends to think of as representative of employee unionism in government; however, it is probably the least important of the three in terms of strength and influence.

Unionism in Government Industry

The craft unions were the first in the United States Government. They predated the postal unions by over a quarter of a century and the general government unions by approximately three quarters of a century. They came upon the scene in the Government's navy yards during the third decade of the 19th century.

During the 1830's, skilled craftsmen in private industry were able in many cases to secure a 10 hour work day. The Government's navy yards and arsenals employed

artisans in many of these same crafts, and quite naturally, the Government employed craftsmen demanded similar treatment to that received by their compatriots in private industry. They petitioned officials of the executive branch of the Government but received no satisfaction. They next turned to the Congress, but this too failed. This failure to achieve redress from the Government set the stage for a series of strikes. The first, by workers in the Washington Navy Yard in 1835, failed. Success was achieved by employees of the Philadelphia Navy Yard in 1836. The strikers after a prolonged and determined strike induced President Jackson to establish the 10 hour day in Philadelphia. This set the prelude for similar successes in Baltimore and New York. An interesting note is that by the fall of 1836, the 10 hour day prevailed in those locations where the workers were organized but that the 12 to 14 hour day continued in effect in those locations where the workers were not organized.[4]

The 10 hour day was not achieved in all of the industrial establishments of the Government until the election

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[4]John R. Commons and Helen L. Sumner, Documentary History of American Industrial Society, Vol. VI, Cleveland, The Arthur H. Clark Company, 1910, p. 301.

year of 1840, when President Van Buren issued the following order.

> The President of the United States, finding that different rules prevail at different places as well in respect to hours of labor by persons employed on the public works under the immediate authority of himself and the Departments as also in relation to the different classes of workmen, and believing that much inconvenience and dissatisfaction would be removed by adopting a uniform course, hereby directs that all such persons, whether laborers or mechanics, be required to work only the number of hours prescribed by the ten-hour system.[5]

The order had the effect of reversing the previous government policy of adhering to the prevailing standard in private industry in a given geographic area. Thus, for the time being at least the Federal Government assumed the role of a model employer. There has not been a constant Government policy in the United States as to how the conditions of public employment are to be determined. Two basic avenues of approach are available--the model employer concept and the concept of following the standards prevailing in private industry. At different times in history, each of these concepts has dominated.

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[5]Sterling D. Spero, Government as Employer, New York, Remsen Press, 1945, p. 181.

Attention will be given in a later chapter to the arguments in support of each of the concepts.

Thus, by 1840, a precedent had been established for collective action by Federal employees including the use of even the strike as a tactic. Labor continued to exercise influence during the next two decades. An important gain was the achieving of the eight hour day by some crafts. An interesting point to remember is that during the 19th century and the early 20th century, there was a marked absence of uniformity among the various government departments, and indeed among different occupations within a department, as to the terms of employment. The situation became so chaotic in regard to wages as to result in the Classification Act of 1920.

The decade of the 1860's saw increased agitation for the adoption of the eight hour day. In 1863, bookbinders of the Government Printing Office struck for decreased hours of work and for an adjustment of pay scales. They succeeded in obtaining the latter but the Superintendent of Public Printing contended that he lacked authority to decrease hours of work. In 1866,

however, the Government Printing Office was successfully struck to gain the eight hour day.

Congress enacted legislation in 1868 providing for the eight hour day for all "laborers, workmen, and mechanics" in Government employment.[6] The joy that this measure brought to the workingman was of short duration, however, for the Secretaries of War and Navy proceeded to reduce wages in an amount proportionately equal to the reduction in hours. This was in conflict with the intent of Congress and was in complete contrast with the practice followed when Van Buren established the 10 hour day in 1840.

The wage cuts by the Government were opposed throughout the country by organizations of army and navy workers and by employee groups in private industry as well. The latter had counted on the Government being a pacesetter in establishing a shorter work day. In 1869, President Grant directed that the reduction in hours of work of Federal employees not be accompanied by a reduction in wages. This proclamation was not rigidly enforced, however, and violations continued. In 1872, Grant found it necessary to issue a second proclamation more

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[6] 15 Statutes at Large 77.

forcefully stating the policy enunciated in his previous proclamation. Shortly thereafter, the Congress included a provision in a Deficiency Appropriation Act restoring all losses in pay that resulted when the Government reduced wages concurrently with the reduction in hours.[7]

The Rise of the Postal Unions[8]

The year of 1863 saw the institution of the free city delivery system in the postal service and also the establishment of social and benefit associations among letter carriers. These were local in scope and were not very similar to the postal unions of today. They were described as follows:

> Although it is true that these groups occasionally interested themselves in legislation or improved working conditions, such interest was but informal, furtive, and incidental and always secondary to their main purpose. Usually, when seeking to better the lot of the force, these societies would enlist the aid of local politicians, and thus they often became tied to the local party machine in a way

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[7] 17 Statutes at Large 134.

[8] The following discussion traces the evolution of postal unionism and is not intended to describe how specific unions now in existence developed. See Exhibit 1 in Appendix A for a listing of the unions now functioning in the postal field.

> that was more to the benefit of that machine than of the letter carriers. The conditions of the service before the coming of the merit system were hardly conducive to the growth of labor organizations.[9]

The enactment of the Civil Service Act of 1883[10] set the stage for the rise of effective postal unions. While politics were not eliminated from the postal system, they were greatly curtailed; consequently, there was a lessening in interest in postal employees by the politicians. This should not be surprising since quid pro quo is an established principle in politics. With the decline of political support for postal employees, it became vital that another means be found to protect and further their interests. Employee unionism was the logical means.

The Letter Carriers

The letter carriers were the first postal group to organize successfully. Initially they were informally organized and the organizations were local in scope. The general practice was for the group in each city to select

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[9]Sterling D. Spero, The Labor Movement in Government Industry: A Study of Employee Organization in the Postal Service, New York, George H. Doran Company, 1924, p. 57.

[10]22 Statutes at Large 403.

one of its members to go to Washington to lobby in behalf of the group's interest.

The establishment of formal unionism among letter carriers coincided with the rise of the Knights of Labor as the dominant labor power in the nation. The Knights were agitating for the eight hour day. The letter carriers still worked in excess of eight hours per day and thus were in sympathy with the eight hour movement.

The eight hour day had been in effect since 1868 for "laborers, workmen, and mechanics" employed by the Federal Government, but the Post Office Department had ruled that the carriers were neither "laborers, workmen, or mechanics" and therefore the eight hour act was not applicable to them.[11] This tendency for the Post Office Department to interpret the law to suit its desires was not unusual during the late 19th and early 20th centuries.

In 1886, two locals of letter carriers in New York City affiliated with the Knights of Labor. Locals were soon formed in several other major cities. Through the efforts of the Knights, an eight hour bill for letter carriers was introduced in Congress in that same year.

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[11]Spero, The Labor Movement in Government Industry, p. 64.

The postal authorities opposed the bill vigorously and moved to disrupt the local unions. The carriers who were members of the Knights attempted to keep their identities secret but were not completely successful in doing so. The Department's tactics against known members included removals, arbitrary transfers, and other dictatorial and capricious actions.

The eight hour bill failed to gain enactment in 1886, but after considerable agitation including attempts to punish the bill's opponents at the polls, it was enacted into law in 1888.[12] Passage of the act did not immediately result in an eight hour day for the carriers. The Post Office Department interpreted the law to provide that the carriers could be compelled to work eight hours a day, seven days a week, or a total of 56 hours a week, before being entitled to overtime. Thus, for example, if a carrier worked nine hours a day, six days a week, or a total of 54 hours a week, he was not entitled to overtime pay since he had worked fewer than 56 hours during the week. Despite vigorous labor protests, postal authorities continued their arbitrary interpretation of the law until the recently formed National

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[12] 25 Statutes at Large 157.

Association of Letter Carriers successfully instituted legal action in the Court of Claims. The Supreme Court subsequently upheld the decision of the lower court.[13]

The favorable decision in the "overtime case" served to increase the prestige of the National Association of Letter Carriers and "by 1900 its ranks included practically all those eligible to membership."[14]

The Postal Clerks

Efforts were made as early as 1882 to form a national organization of postal clerks but it was not until 1890 that the National Association of Post Office Clerks, the first national union of postal clerks, was formed. The postal clerks set about to obtain an eight hour day, a fifteen day per year vacation, and a better classification bill. The vacation bill was enacted almost immediately, but the other two proposals were to require more time.

Unlike the letter carriers, who had attempted to maintain a somewhat distant relationship between

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[13]Court of Claims Reports, Vol. xxvii, Washington, United States Government Printing Office, 1894, pp. 555-556.

[14]Spero, The Labor Movement in Government Industry, p. 78.

themselves and the postal authorities, the postal clerks attempted to gain the favor of officials of the Post Office Department. They were initially successful and enjoyed good relationships with Postmaster General Wanamaker. Their main source of trouble was with the postal authorities in New York City who diligently attempted to disrupt the union's activities. Later the New York authorities switched their tactics to an attempt to gain control of the local union. They succeeded to a considerable degree. In time a feeling became prevalent within the rank and file that the Department was exercising too much influence on the union's affairs and that union officers were using their positions to further their own interests. Thus, the stage was set for the establishment in 1896 of a rival union, the United Association of Post Office Clerks.

An extremely bitter fight ensued between the rival unions. The National Association had the support of the postal authorities and great pressure was exerted to destroy the United Association. Supervisors became organizers for the National Association. Their principal organizing method was:

> A clerk would be called into the office of his superintendent and told that the "Postmaster and Mr. _____ (a high official) wished him to join the Association." Under the circumstances it took a great deal of courage to refuse such a "request." The men knew that failure to comply meant discrimination against them and very often dismissal from the service.[15]

The United Association's principal strength came from its support by the Knights of Labor.

It was during this era that the "promotion syndicate" was operating in the National Association local in New York. Promotions were sold freely and the knowledge of this tended to discredit the National Association among honest employees. In 1903, an investigation was ordered by President Theodore Roosevelt and the syndicate was smashed. Numerous indictments, removals, and resignations followed.

By 1899, it had become apparent to the rank and file that nothing was being gained by the existing dual unionism among clerks; thus, pressure was exerted on union leadership to effect a merger of the two organizations. This was done and the United National Association of Post Office Clerks (UNAPOC) emerged. A major compromise on

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[15] Ibid., pp. 88-89.

the part of the National Association in effecting the merger was that supervisors above the rank of foreman were barred from future membership. Existing members, with the exception of postmasters, were permitted to retain their membership.

During the 1890's, the clerks union in Chicago was associated with the Knights of Labor. By 1900, the Knights had become a relatively ineffective organization and the postal clerks in Chicago were in dire straits. They gained affiliation with the American Federation of Labor and at the same time maintained relations with UNAPOC; however, the latter frowned on locals being affiliated with outside labor organizations and in 1902 it refused to seat the Chicago delegation at its national convention.

UNAPOC had adopted the policy of attempting to ingratiate itself with the Post Office Department in the hope that it would thus achieve concessions and aid from the Department. Wherever possible it avoided any show of independence. The organization was almost totally ineffective in representing the interests of its members and by the opening of its 1905 convention an open revolt against the union's leadership was pending.

The incumbent officers retained control in the convention by the use of tactics which opponents maintained bordered on dishonesty.

During this same period, a Chicago local affiliated with the AFL was attempting to form a national union of postal clerks to be affiliated with the AFL. The split in the UNAPOC ranks which resulted from the 1905 convention aided the Chicago group and in 1906, the National Federation of Post Office Clerks was established as a national union of the American Federation of Labor. The Post Office Department's attitude toward the new union was hostile. One author stated that the Department viewed the union

> ...as a movement different from other postal organisations, and that they saw in it a challenge to the conciliatory tactics of the older associations. The formation of the Federation was a declaration of independence of departmental tutelage. It was equivalent to the service of notice that one group of postal workers, at least, preferred to seek improved conditions through the help of their fellow wage-earners in industry, rather than to wait upon the good will of the executive authorities, or to depend entirely upon the pleasure of legislative friends.[16]

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[16] Ibid., p. 111.

The formation of the National Federation of Post Office Clerks was significant for it established a firm and formal relationship between the government worker and the national labor movement. The relationship proved to be an invaluable asset in furthering the cause of the Federal employee.

The Rural Carriers

In 1903, the National Rural Letter Carriers Association was established. The rural carriers cannot be classed as one of the postal giants such as the letter carriers or the postal clerks, but it has nonetheless been remarkably successful in achieving the measures it has advocated. This success may be attributed in large part to the political influence that the rural carriers have been able to muster. Unlike most government employees they have intimate and daily contact with the public and thus constitute quite a propaganda machine.

The Railway Postal Clerks

The story of the organization of the railway postal clerks and of the conditions in which they worked is a saga of frustration on one hand and of disgrace on the other.

The first serious attempt toward organization of railway postal clerks occurred in 1886. A group of republican clerks joined together in a Brotherhood of Railway Postal Clerks, designed primarily as a protection against political removals by the Cleveland administration. The Post Office Department moved swiftly to crush the organization using wholesale dismissals to do so.

The next attempt at organization came in 1891 when the National Association of Railway Postal Clerks was formed. It was basically a social and beneficial association rather than a labor union. It was largely ineffective in its representation activities. In 1904, the organization changed its name to the Railway Mail Association. It continued the policy of attempting to achieve its program through close cooperation with postal authorities. By 1905, a feeling had become prevalent among members that the conciliatory and conservative tactics of the Association were ineffective and the adoption of a more aggressive stance was needed. The Association hardened its line and the Department countered by attempting to obstruct the union's activities.

A more militant group of railway clerks left the Association in 1906 to form the Brotherhood of Railway Postal Clerks. The Department moved quickly to destroy the Brotherhood and in 1907 it passed out of existence without ever achieving any real strength.

The most effective representative of the railway clerks was not a union at all but rather a small magazine, The Harpoon. This magazine, which was established by a tubercular, former railway clerk, brought national attention to the deplorable conditions in the railway mail service as well as in the rest of the postal establishment.

It is difficult to conceive of the intolerable conditions which existed but they are well documented.[17] These conditions fell into three categories--unsafe working conditions, unsanitary conditions, and an excessive volume of work.

The unsafe conditions were brought about by the continued use of obsolete railway post office cars of

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[17]For detailed descriptions of the working conditions in the Post Office Department during the late 19th and early 20th centuries see The Labor Movement in Government Industry by Sterling D. Spero; and The History of the National Federation of Post Office Clerks by Karl Baarslag.

wooden construction. This was at the same time that most other rail equipment was constructed of steel. The postal cars were generally placed immediately behind the engine and in front of the heavier coach, pullman, and baggage cars; thus, when a wreck occurred the wooden mail car was crushed between the steel cars of the rest of the train. That the mail cars were of wooden construction was bad enough, but in some instances the wood was rotten.

The sanitary conditions of the mail cars were atrocious.

> Often they were not swept or cleaned for long periods. Toilets, not enclosed in closets but situated in the open car, were equipped with neither flushing nor disinfecting devices. Drinking-water coolers, in many instances situated above the open, and all too often filthy, hoppers, were left uncleaned for trip after trip. The ice and water, instead of being kept separate as the sanitary codes of many states required of railroads in their jurisdiction, were thrown into the tank together. If the ice had been clean this would have not been so bad, but as a rule the ice used was taken from lakes, large sloughs or ponds. When the lump melted the weeds and grass and dirt which had been frozen into it would be left as settlings in the water.[18]

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[18]Spero, The Labor Movement in Government Industry, p. 129.

The Post Office Department's first defense against charges of unsafe and unsanitary conditions was to deny that they existed or at best to minimize them. Whenever possible, it also attempted to obstruct the reporting of the conditions. Appeals by the Railway Mail Association or by individual employees were in vain and often exposed the complainant to censure by the Department.

By 1910, the Congress has become sufficiently aroused that a provision was included in the 1911 appropriation act for the Post Office Department prohibiting the use of funds to pay for the rent or use of mail cars that were not "sanitary, and sound in material and construction."[19] The Department in typical fashion contrived to circumvent the provision by requiring clerks to certify that their cars were sanitary. If a clerk certified his car as unsanitary, his report was returned to him with instructions to reclassify the car as sanitary. The Congress responded by including in the 1912 Post Office Appropriation Act a proviso so specifically drawn as to leave the Department with little choice but to comply.[20]

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[19] 36 Statutes at Large 363.

[20] 36 Statutes at Large 1335.

Until 1910, there was little complaint from the railway clerks about the volume of work or the hours. However, in that year the Department began a concerted effort to "take up the slack" in the railway postal service. The number and size of crews were reduced. Consequently, it became necessary to shorten lay-off periods and to increase the hours of road duty. As positions became vacant, they were often not filled and the remaining clerks had to assume greater volumes of work. The result was chaos. The efficiency of the railway mail service declined sharply. Tons of unworked mail piled up, and the morale of the clerks was broken. The Railway Mail Association, largely if not completely under the domination of the Department, was not effective in representing the clerks' grievances.

In January, 1911, the Tracy-Pierre strike occurred. This incident was really more in the nature of insubordination than a strike. Most of the clerks on the run from Tracy, Minnesota to Pierre, South Dakota refused to do extra work required of them, though they did agree to perform the work on their regular runs. The clerks were suspended by postal authorities. The Department unsuccessfully attempted to maintain efficient service

on the line by transferring clerks from other divisions and by the use of substitute help. Backlogs of unworked mail mounted and the public became alarmed. The situation became worse when clerks in other divisions refused to transfer to the Tracy-Pierre division. Then on the adjoining Elroy-Tracy division, a number of clerks followed the example of the Tracy-Pierre group; however, this time the Department reacted differently. It withdrew the extra work and filled the vacant positions. Unrest spread to St. Paul and Omaha where statements which bordered on ultimatums were directed to the Department.

Progressive elements within the Railway Mail Association feared the situation would get out of hand and felt it was necessary to do something quickly to forestall trouble. They recognised that the Railway Mail Association was largely ineffective and had lost the confidence of most of the rank and file; therefore, in February 1911, they formed the Brotherhood of Railway Postal Clerks.

The railway postal clerks finally won a major victory when the Postmaster General declared that the "take up the slack orders" were issued without his

authorisation. The orders were modified and peace was restored to the railway mail service.

Unfortunately, the Department was on the threshold of adopting an even harder line against the postal unions. The Department decided that it had the right to determine the form that employee organizations should take and that it could require that all organization officers be postal employees. Given this right, the Department could by terminating the employment of a union officer also end his service as a union official. It was also held that the Department could determine to which unions the employees could belong.

The Department set about to crush those unions which were not under its complete domination. Dismissals, demotions, and arbitrary transfers were the principal weapons of the Department and it used them unsparingly. When progressives within the Railway Mail Association attempted to gain control of the Association, the postal authorities aided the incumbent officers, and the rank and file came more and more to the realization that their interests lay with the progressives and not the old guard.

The Gag Orders[21]

The focal point of difficulty in the Government's employee-management relations, especially in the postal establishment, during the early 20th century was the "gag orders" of Presidents Theodore Roosevelt and William Howard Taft. These orders basically restricted Federal employees from direct petition to the Congress; thus the government employees' traditional means of obtaining redress from arbitrary and unjust actions of officers of the executive branch was closed. Consequently, the employees were left with severely limited means to protect themselves against executive abuses, and it was only after conditions had become so scandalous as to invite the public's attention, that these abuses were to some extent curbed.

The gag orders provided government officials with a convenient means for controlling union activities among employees. If a particular union was subservient to the will of the officials, then the officials would close their eyes to violations of the gag orders by representatives of the friendly unions. On the other hand, the

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[21]There were four different gag orders. See Exhibit 2 in Appendix A for their texts.

Government would invoke the orders against the representatives of any union incurring its displeasure and would use violations of the orders as grounds for the dismissal of the offending employee.

Postal authorities were not satisfied with merely obstructing employee appeals to the Congress but also set out to deny the right of association by employees if the Department felt it desirable to do so. Thus, the question of abrogating the gag orders and of guaranteeing the right to organize became intwined.

The Lloyd-La Follette Act

The first anti-gag legislation was introduced in 1910, but it received little active support and no action was taken on it. Pressure in support of remedial legislation built up during 1911 setting the stage for enactment of the Lloyd-La Follette Act in 1912.[22]

In active opposition to the legislation were among others President Taft, officials of the Post Office Department, and numerous business groups and citizen's alliances. Among those in active support of the

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[22] 37 Statutes at Large 555. See Exhibit 3 in Appendix A for the text.

legislation were the American Federation of Labor, the National Federation of Post Office Clerks, and the magazine, The Harpoon. The amazing fact is that most of the postal unions did little or nothing to help gain enactment of this vital piece of legislation, which is the most important piece of legislation ever enacted relative to the rights of Federal employees to organize collectively. This is an indication of the degree of dominance the Department exercised over union leaders. Officials of the National Association of Letter Carriers testified at Senate hearings only because they were subpoenaed as did officials of the United National Association of Post Office Clerks. They urged enactment of the legislation but gave no active support to it. Two successive conventions of the Railway Mail Association refused to endorse the legislation. The Presidents of both the Railway Mail Association and the National Association of Letter Carriers were agreeable to removing from the legislation the clause guaranteeing the right to organize. The National Association of Letter Carriers and the United National Association of Post Office Clerks were agreeable to inclusion of an

amendment barring affiliation with outside labor organizations.[23]

In spite of powerful opposition, the legislation was enacted in the House of Representatives with only one dissenting vote; however, success was more difficult to achieve in the Senate. After extended debate the Senate adopted the legislation with some amendments. Thus, Congress enacted the Lloyd-La Follette Act which was designed

> ...primarily to rectify what it considered to be certain grave abuses of authority on the part of the executive, and that prominent among these abuses were anti-union activities of the Post Office Department.[24]

The Burleson Postal Administration

Shortly after the passage of the Lloyd-La Follette Act Woodrow Wilson entered the White House. Hopes were high for an improvement in the employee-management relations of the Government. While there

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[23]Spero, The Labor Movement in Government Industry, p. 175.

[24]Ibid., p. 172.

were some improvements in the Government, relations actually worsened in the Post Office Department.

While his predecessors in office had been content to try to make the postal service self-sustaining, Postmaster General Burleson wished to show a surplus. Four alternatives presented themselves in attempting to transform the postal system from a deficit to a surplus situation, to-wit: (1) postal rates could be raised, (2) services could be curtailed, (3) operating costs could be reduced, or (4) a combination of the foregoing could be done. It was through a reduction in costs that Burleson primarily hoped to achieve a surplus. Since the cost of personnel is a substantial part of the entire cost of the postal system, any cost reduction program must be directed largely at employee costs. To achieve savings in this area, an attempt could be made to increase efficiency on the job, to reduce wages, or to lengthen the hours of work without granting additional compensation. The Postmaster General attempted all of these.

The Department introduced an efficiency rating system based on the principles of scientific management then being developed in industry. As might have been expected, the unions opposed this. There is little doubt

that such a system was needed in the Post Office Department. There is also little doubt that the introduction of the system was mismanaged. The Department made no effort to win acceptance of the system by the unions or the employees concerned. The system was somewhat crudely designed and was operated in a secretive and arbitrary manner.

Burleson's wage policy was ill conceived. He first attempted to secure legislation reducing wages in 1914. As might have been expected, his attempt failed, and in 1915 he proceeded to reduce wages wherever possible through administrative action. By 1917, inflation brought on by the War had greatly reduced the purchasing power of wages. Postal employees sought a wage increase from the Congress, and Burleson opposed it saying that the employees were "justly compensated, receiving more than three times as much as those fighting in the trenches."[25] The Postmaster General's views would have been more valid if general wage and price controls had been in effect, but it was somewhat ridiculous to expect postal employees to

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[25] Post Office Department Annual Report, fiscal year 1917, Washington, United States Government Printing Office, 1918, p. 33.

forego pay raises that others were getting. His stand was all the more ridiculous in light of the fact that the Treasury Department, which was administering the nation's railroads during the War emergency, was permitting pay increases for rail workers.

In spite of Burleson's opposition, Congress enacted a pay raise for postal workers in 1918, but it was not sufficient to keep pace with the inflationary spiral of the time. Another salary increase followed in 1919 and still another in 1920. Both were opposed by postal authorities, and that both were inadequate is demonstrated by the fact that the Department was having difficulty securing labor.[26]

As in the case of wages, Burleson attempted to secure legislation permitting the Department to increase the hours of work of its employees. Again he failed to obtain the desired legislation. Again he moved to achieve his objectives wherever possible through administrative action even to the extent of ignoring restrictions of law.[27]

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[26]Spero, The Labor Movement in Government Industry, pp. 204-205.

[27]Ibid., pp. 192-193.

When Burleson entered office, the employees of the Post Office Department were already well organized; however, most of the organizations were relatively conservative. For the most part they tried to maintain cordial relationships with the Department and they were largely opposed to affiliation with non-government labor organizations--primarily the American Federation of Labor. Burleson set out to destroy the unions. He only succeeded in strengthening them, in making them more militant, and in driving them into affiliation with the American Federation of Labor. In 1917, the National Association of Letter Carriers and the Railway Mail Association affiliated with the AFL. This is all the more impressive since the Railway Mail Association from its inception until as late as 1915 had been pretty close to being a company union. In 1920, the National Federation of Rural Letter Carriers was established by dissident members of the National Rural Letter Carriers Association. By the end of Burleson's reign, the important postal unions were mostly affiliated with the AFL.

The Postal Unions Gain Acceptance

The advent of the Hays' postal administration during the presidency of Warren G. Harding marked the time at which the postal unions gained acceptance. There would be problems and disagreements in the ensuing years, but the union-management wars of the preceding three decades would be largely avoided.

Will Hays was a new kind of Postmaster General. Shortly after entering office he enunciated his policy stating:

> The Postal Establishment is not an institution for profit or politics; it is an institution for service, and it is the President's purpose that every effort shall be made to improve that service.
>
> Every effort shall be made to humanize the industry. Labor is not a commodity. That idea was abandoned 1,921 years ago next Easter. There are 300,000 employees. They have the brain and they have the hand to do the job well and they shall have the heart to do it well. We purpose to approach this matter so that they shall be partners with use in this business.[28]

The new Postmaster General lost little time in reversing much of the Department's labor relations

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[28]Postal Bulletin, March 11, 1921, as quoted in Spero, The Labor Movement in Government Industry, pp. 244-245.

policy. He initiated meetings with the heads of all of the postal unions. He reinstated several employees who had been arbitrarily and wrongfully fired by his predecessor. And he established a welfare division with broad responsibilities concerning working conditions and the grievances of employees.

The welfare division proceeded to establish a National Welfare Council composed of representatives of the unions and of management. The Council had broad powers to study almost anything in the Department and its findings were transmitted to the Postmaster General. There was also established local councils throughout the country which could refer matters to the National Council.

Hays did not remain long as Postmaster General before leaving in 1922 to become the "czar" of the motion picture industry's ethical standards. His welfare division and the councils outlasted him but not for as long as might have been hoped. They were terminated in 1931 when Congress failed to appropriate funds for their continuance. It was just as well though for they had almost ceased to perform a useful function and in truth, had never been fully accepted by the unions.

The Advent of General Government Unions

Attempts at organization of general government workers occurred as early as 1896 when the National Civil Service Association was established. The Association lasted only three years, dying in 1899, and leaving but one important legacy, advocacy of a contributory civil service retirement system. In 1900, the United States Civil Service Retirement Association was created. As its name would indicate, the Association had as its prime purpose the securing of a retirement system for government employees. In a short time it was split, as was the government labor movement in general, over whether to advocate a contributory system or a straight pension system. Since there was no unity among the labor organizations on the subject, no progress was made in securing retirement legislation.

At the very time that unionism was spreading quickly in the postal establishment, union feeling was all but dormant among the general government workers. The latter were content to reap the benefits after the postal unions fought the battles.

Unions were the children of adversity and the National Federation of Federal Employees, the first of

the national unions of general government employees, was no exception.

In 1916, Representative William Borland of Missouri introduced legislation to extend the hours of work of Federal employees from seven to eight. Almost immediately a group of employees in the War Department set about to organize. They and a group of employees already organized in the Bureau of Engraving and Printing sought and obtained a charter from the American Federation of Labor as the Federal Employees Union. It set about to encourage further organization of Federal employees. By the fall of 1917, nearly seventy locals had been formed and they petitioned the AFL for a charter as a federation. It was granted and the National Federation of Federal Employees was formed.

Borland's attempt to extend the hours of work was defeated decidedly in the House of Representatives primarily due to the efforts of the AFL; however, the Congressman did not accept the defeat, and in 1918 he again introduced the legislation as a rider to an appropriation bill. Both houses of Congress passed the rider and only President Wilson's veto saved the government employees from extended hours. This narrow

escape made it plain that the employee organizations must face the issue squarely and move to unseat Borland. This they did in the 1918 primary campaign in the Congressman's Missouri district. He was defeated easily in a campaign in which labor participated actively.

The NFFE's reputation and strength were growing in an amazing manner. By October, 1917, the organization had 10,000 members, a remarkable growth in such a short time, and by June, 1919, membership had reached 50,000, to make it the largest labor organization in the Government.[29]

The 1920's

The "roaring 20's" was a period during which a marked change began to take place in this country. We emerged as a great industrial nation. Our economy soared. The mores and attitudes of the people changed, and the lot of the government worker improved.

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[29]Paul Van Viper, History of the United States Civil Service, Evanston, Illinois, Row, Peterson, and Company, 1958, p. 275.

The Retirement Act

The Retirement Act of 1920[30] was one of the most important pieces of legislation ever enacted to benefit the government worker and at the same time the Government. It was the beginning of the establishment of an excellent retirement system which at last lifted from the shoulders of the employee the fear of survival in his old age, and which at the same time provided the Government with a humane means of removing from its rolls numerous employees who had become woefully inefficient due to the infirmities of age. This Act has been amended many times but it formed the basis of a much needed system.[31]

The establishment of a retirement system was not achieved easily or quickly. It was a long time from 1896 when the National Civil Service Retirement Association and the National Association of Letter Carriers advocated a retirement system until 1920 when it was at last achieved.

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[30] 41 Statutes at Large 614.

[31] See Exhibit 4 in Appendix A for a comparison of the original retirement act with the retirement system now in effect.

The Government had long advocated legislation in the area of retirement. A retirement plan had been advocated as early as 1849 by the Postmaster General.[32] Beginning in 1899, the Civil Service Commission recommended the enactment of retirement legislation in its annual reports. In addition, both Presidents Roosevelt and Taft had favored the principle of a retirement plan. Why then did it take so long to achieve action? The labor organizations themselves must accept a large part of the blame for the slowness of the movement for there was little unanimity in the labor movement as to whether a contributory or a straight pension system should be enacted. It is understandable that under these circumstances the Congress gave them neither. Over the years when efforts have been made to liberalize the retirement system, they have succeeded or failed largely according to the solidarity on the part of the unions.

In 1917, the government labor organizations affiliated with the AFL and formed the Joint Conference

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[32]United States Civil Service Commission, History of the Federal Civil Service, 1789 to Present, Washington, United States Government Printing Office, 1941, p. 103.

on Retirement. This group formed the nucleus around which labor rallied to push for retirement legislation. It provided a coordinated lobbying effort which was able to exert great pressure on the Congress.

The retirement act was passed only after several compromises. One of these compromises still troubles the retirement system. To appease some elements in Congress, it was agreed that all expenditures for retirement in the initial years of operation of the system would be met by using exclusively funds supplied by the employees through their contributions; thus, no expenditures would be immediately required by the Government. In fact, the Government did not make a contribution to the retirement fund until 1929. This established a precedent for the deferral of contributions to the fund by the Government, and during some of the early years of the Eisenhower administration, the Government did not make a sufficient contribution. The deferral of contributions has a cumulative effect since it denies to the fund the interest revenue that would have accrued from investing the deferred contributions.

The deferral of contributions by the Government with attendant loss of interest, and the failure of the

Congress to provide for proper funding of benefit increases, has resulted in a shortage in the fund of $39.2 billion as of June 30, 1964.[33] During the Hoover, Roosevelt, and Truman administrations, the Government generally made sufficient contributions to the fund to meet the current obligations and to eliminate the deficit in the fund by the end of the century. Since then, no administration has shown a willingness to secure the appropriations needed to make the fund whole. Politically, this can be understood. It is difficult enough to balance the budget without including a large sum for expenditure which can easily be deferred. The chickens will not come home to roost for a while anyway but when they do the problem is going to be a major one. The Civil Service Commission estimates that the fund will have a zero balance by 1990, and thereafter the annual benefit payments to which retirees are entitled will exceed the combined contributions from the employees and the Government by $3.6 billion per year.[34]

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[33] Andrew Ruddock, "What Price Protection," Civil Service Journal, January-March 1965, vol. v, no. 3, p. 11.

[34] Ibid., p. 13.

The Classification Act

Another extremely important piece of legislation enacted in the third decade of the 20th century was the Classification Act of 1923.[35] Like the retirement act, it has been amended and changed many times in the passing years, but it was a big step forward. And like the retirement act, it was important not only to government employees but also to the cause of good administrative management in the Government.

The need for an equitable system of job classification, which in fact means an equitable system of pay, was apparent. The system which was in existence in the early 1900's could scarcely be called a system.

> The basis of pay of workers in the clerical grades was fixed by an act passed in 1854, while that of workers in the sub-clerical grades was fixed by an act of 1866. Meanwhile the service expanded in haphazard fashion. New grades and positions with new salary levels were created at each session of Congress. New bureaus and even new departments were set up, and the pay of their employees was fixed by new laws or regulations which took little account of the standards in the other branches. Forces were increased and new salary levels set for the newcomers while the

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[35] 42 Statutes at Large 1488.

> older employees in the same office continued under pre-Civil War scale. Employees doing identical work were receiving different rates of pay.[36]

The major force behind the reclassification movement was the recently formed National Federation of Federal Employees. It is quite likely that the movement would have failed if it had not been for the energy supplied by the young union. At its first convention in 1917, it adopted a resolution calling for reclassification. The postal unions were generally sympathetic to the cause of classification though they had little direct interest in it. On the other hand, the craft unions were somewhat hostile to it because of their fear it was somehow a threat to journeyman standards and practices. The craft union hostility was to be the instrumental factor in the NFFE leaving the AFL some years later.

By 1919, appreciable headway was being made in the drive for reclassification. In that year, Congress established the Congressional Joint Commission on the Reclassification of Salaries. The Commission cooperated

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[36]Spero, Government as Employer, p. 181.

closely with the labor movement, and the NFFE in particular, in surveying the problems of reclassification. In 1920, the Commission issued its report recommending reclassification of positions throughout the government service. Other recommendations were that salaries be adjusted from time to time to relate to changes in the cost of living and that responsibility for administering the law and classifying the positions be placed with the Civil Service Commission. Furthermore, representatives elected by the employees were to serve on an advisory committee.

Opposition to reclassification was led by the Bureau of Efficiency and by Senator Smoot. Their opposition was sufficient to delay passage of reclassification until 1923, and to effectively alter the Joint Commission's recommendations even then.

The act passed in 1923 differed from the Commission's recommendations in two important respects. First of all, it did not require reclassification of the field service. Secondly, its administration was not placed in the hands of the Civil Service Commission but rather with a Personnel Classification Board

consisting of one member each from the Civil Service Commission, the Bureau of Efficiency, and the Bureau of the Budget.

The Bureau of Efficiency soon exercised dominance over the Board and effectively sabotaged the reclassification effort. The failure of reclassification to appreciably help the vast majority of government workers, especially in the field service, damaged the National Federation of Federal Employees. It was not until 1928, when the NFFE helped gain enactment of the Welch Act[37] extending classification to the field service, that the labor organization began to regain some of its lost strength and prestige. By 1932, classification was the responsibility of the Civil Service Commission and was working well.

The system established by the Classification Act of 1923 was weak and did not work well. Subsequently, it was altered several times and was eventually replaced by the Classification Act of 1949 which itself has been amended. But the Act of 1923 was a beginning in the effort to achieve a fair and equitable system and as such is a landmark in the development of personnel management.

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[37] 45 Statutes at Large 776.

Dual Unionism in the General Government Movement

It is strange that the advocacy of classification which was one of the great strengths of the National Federation of Federal Employees was to be the prime factor contributing to the introduction of dual unionism into the general government labor movement. The craft unions of the AFL opposed the extension of classification to the skilled crafts and when the Personnel Classification Board advocated such an extension in 1931, the craft unions became very upset. The NFFE restated its position that the crafts should not be incorporated into the classification system if they did not wish to be; however, the craft leaders were not to be pacified and in its 1931 convention, the AFL adopted a resolution opposing a reclassification bill (not relating to the crafts) which the NFFE was promoting. The union of government workers then withdrew from the Federation.

The next year, in 1932, the American Federation of Government Employees was formed as an affiliate of the AFL. The AFGE initially had a broader jurisdiction than the NFFE since it included state and local government employees among its members. This continued until

1936 when the American Federation of State, County, and Municipal Employees was formed as an affiliate of the AFL.

The American Federation of Government Employees was somewhat more dynamic at its inception than the National Federation of Federal Employees, but it was not a radical or overly militant organization. It opposed not only the use of the strike but also the use of picketing. In its efforts to avoid controversial tactics and maintain a respectable image, the parent union suspended several locals for their militant actions. This conservative attitude alienated elements within the organization. The dissident group proceeded to form the United Federal Workers of America, affiliated with the Committee for Industrial Organization.

The New Deal Years

The gradual improvement in employee-management relations continued during the New Deal era. The improvement was not radical, and President Roosevelt made it quite clear that he would not permit government employee unions the same rights which the Federal Government was extending to the labor movement in industry. In a 1937 letter to Mr. Luther C. Steward, president of the

National Federation of Federal Employees, Roosevelt stated, "I want to emphasize my conviction that militant tactics have no place in the functions of any organization of government employees...". He went on to say that the use of the strike by government employees was "unthinkable and intolerable." On one issue at least, Franklin Roosevelt and Calvin Coolidge held the same viewpoint.

On the positive side of Roosevelt's labor relations policy, it is noteworthy that collective bargaining began to gain acceptance in several government agencies including the Tennessee Valley Authority and segments of the Department of the Interior.

Management attitudes had changed sufficiently by 1938 for the Civil Service Commission to state:

> The Commission has noted with real satisfaction the constructive work of organized groups of employees in improving personnel practices.
>
> Leadership of employee unions has been responsible and intelligent. Cooperation from employee groups has been outstanding. The Commission believes that the maintenance of a close cooperative relationship with employee organizations is an assurance of progress in the field of personnel administration, and an assurance against friction and misunderstanding preventable wherever enlightened personnel management exists.[38]

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[38] Annual Report of the Civil Service Commission, fiscal year 1938, Washington, United States Government Printing Office, 1938, p. 27.

The coming of World War II witnessed continued improvement in employee-management cooperation. On November 20, 1942, the Civil Service Commission established a Labor-Management Advisory Committee consisting of two representatives each of the American Federation of Labor, the Congress of Industrial Organizations, and the National Federation of Federal Employees, and six representatives of management. The Committee was charged with recommending policies:

> ...which will expedite the Government's part in the war program. Proposed policies relative to the effective utilization of personnel in the war program will be placed before the committee before final action is taken, and the committee shall also initiate proposed policies relative to the effective utilization of personnel in the war program.[39]

The Commission was undoubtedly motivated primarily by a desire to further the war effort and not by a desire to extend the principles of employee-management relations, but it is significant to note that the more extensive employee participation in management was considered an effective means of increasing efficiency and furthering the war effort. When the Commission issued its Annual Report for fiscal year 1943, it

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[39] Annual Report of the Civil Service Commission, fiscal year 1943, Washington, United States Government Printing Office, 1943, p. 51.

urges agencies to organize a "planned, progressive employee-relations program."[40]

The Post War Years

The years following World War II saw the continuance of the evolution of employee-management relations in the Federal service. Clearly the most spectacular problem during the period involved the communist influence in the labor movement in general and in the government employee unions in particular. Less spectacular but very important to the employee was the enactment in 1948 of legislation amending the Lloyd-La Follette Act to provide greater guarantees against unjust suspension or discharge.[41] Important to the Government itself was the report on personnel management by the Commission on Organization of the Executive Branch of the Government, better known as the Hoover Commission.

Communist Influence and the Loyalty Program

The problem of communist influence among government employees has existed since the 1930's. Communist

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[40] Ibid., p. 56.

[41] 62 Statutes at Large 355.

influence was strong among the Postal Workers of America, an industrial type union, which was organised in 1934. Its reputation was such that the CIO refused its request for affiliation in 1937. The CIO's United Federal Workers of America, itself, had a left wing reputation during the late 30's.

The war years saw the expansion of interest in the loyalty of government employees. The Civil Service Commission conducted several hundred thousand investigations in carrying out its loyalty program. During this same period, Congress was approaching the problem through the House Committee on Un-American Activities chaired by Martin Dies. The Federal Bureau of Investigation conducted extensive loyalty investigations including ones on employees whom the House Committee had alleged were disloyal. The FBI's reputation is such as to effectively preclude a charge against it of performing a whitewash. It is significant that the Bureau found an extremely small percentage of those accused to be disloyal.

By 1946, it was apparent that the United Federal Workers of America was not achieving success in its drive to become the major union of general government employees; thus, it was merged with the State, County, and Municipal

Workers of America to form the United Public Workers of America affiliated with the CIO. Almost immediately, the communists gained appreciable influence in, if not control of the organization. It advocated a pro-Soviet foreign policy, condemning American and British colonialism in such places as India and the Philippines while refusing to demand Russian withdrawal from the countries of Eastern Europe. The UPW also asserted the right to strike by state, county, and municipal workers. This action caused great concern in Congress even though the union restated its position opposing strikes against the Federal Government.

The United Public Workers' radical policies created internal dissension in the union and its strength and prestige among Federal employees continued to decline to a point where it was largely ineffective. It did a great disservice to government employees for it helped to create an image of disloyalty which contributed to the McCarthy era.

The Hoover Commission

As a part of its review of the operations of the executive branch of the Government, the Hoover Commission issued a report on personnel administration. The greater

part of the report is outside the domain of this thesis and will not be commented on here. However, brief attention was given to labor-management relations. While recognizing that "the Government has lagged behind American industry in improving employer-employee relations" the Commission placed its major stress on the existence of "inefficient employees and deadwood" in the Government and the difficulty attendant in removing them from the service.[42]

In conducting its survey of Government administration, the Hoover Commission relied heavily on task forces to develop reports in selected specialized areas. The task force in the personnel area was known as the Personnel Policy Committee. It was chaired by John A. Stevenson, president of the Penn Mutual Life Insurance Company. The Committee included such well-known personages as Senator Harry F. Byrd, David Lilienthal, Robert Ramspeck, Dr. Vannevar Bush, and Dr. Leonard D. White.

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[42]The Commission on Organization of the Executive Branch of the Government, Personnel Management, A Report to the Congress by the Commission on Organization of the Executive Branch of the Government, Washington, United States Government Printing Office, 1949, pp. 29-32.

The Committee had also several members of less national fame from industry.

The Personnel Policy Committee took a much more progressive stand on employee-management relations than that which was subsequently adopted by the parent Hoover Commission. Of primary importance to the labor movement was the task force recommendation that the Government promulgate, either through legislation or by executive order, a policy that:

> All employees shall have the right, by individual or group action, to comment on or recommend policies, procedures and practices which affect the general welfare of Federal employees; and to make suggestions which will contribute to greater efficiency and economy in the conduct of the work of the Government.[43]

The recommendation of the Personnel Policy Committee had great import, even though not adopted. It was another step in the evolution of the Government's labor relations policy. The seed of an idea was planted. It would take time for it to grow.

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[43]The Personnel Policy Committee, Programs for Strengthening Federal Personnel Management, Washington, United States Government Printing Office, 1949, p. 70.

CHAPTER III

RECENT GOVERNMENT POLICY RELATIVE TO UNIONISM IN THE FEDERAL SERVICE, 1953-1965

The Eisenhower Administration

The Republican campaign of 1952 had been built around the slogan, "It's time for a change." And change there was although not all of it was of the type the Republicans had expected. Eisenhower entered the presidency with a hostility toward big government and a suspicion of the career service. This outlook caused great concern among Federal employees in general and served to establish a distrust of the administration that was never dispelled. This was unfortunate since progress was made in the Government's program of employee-management relations during the Eisenhower years. Additional fringe benefits were provided for the employees, and there was some slight clarification and improvement in the Government's policy toward employee organizations among its own employees.

Life and Health Insurance Acts

Two important fringe benefits were gained by Federal employees during the Eisenhower administration. The first

was the establishment in 1954 of a group life insurance program as authorized by Public Law 83-598.[44] The employees have regarded this as an important achievement, and several efforts have been made subsequently to increase the benefits under the program.

Probably even more important to the employees was the enactment of the Federal Employees Health Benefits Act of 1959.[45] The Act provided Federal employees with an opportunity to participate in a health benefits system with their employer, the Government, contributing a share of the costs. The importance that employees attach to the health benefits program is attested to by the fact that by June 1960, nine months following enactment of the authorizing legislation, 1,750,000 employees or 90 percent of those eligible were participating in the program.[46]

Retirement Legislation

In 1956, the administration vigorously advocated bringing the Federal employees retirement system into

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[44]68 Statutes at Large 736.

[45]73 Statutes at Large 708.

[46]Annual Report of the Civil Service Commission, fiscal year 1960, Washington, United States Government Printing Office, 1960, p. 4.

the social security program. The employee unions opposed the legislation with equal vigor and managed to defeat it.

During the same session, Congress enacted legislation liberalizing the Federal employees retirement system in several areas.[47] To pay the added costs, employee and employer contributions were raised from six percent to six and one-half percent of the basic salary of the employees. Significantly, the legislation for the first time required employing agencies to contribute directly to the Retirement Fund in an amount matching the contributions of their employees. This requirement was designed to end the budgetary manipulations which had been pursued intermittently since the inception of the Retirement Fund. No longer would it be possible for the Government to help balance its budget by simply not including funds for which it was obligated to the Retirement Fund.

Employee-Management Relations

Beginning in the late 1940's there was sentiment among employee unions, in the Congress, and in some parts of the administration for the establishment of a formal system of employee-management relations in the Federal

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[47] 70 Statutes at Large 743.

service. As the 1950's progressed, interest in such a system widened.

In 1954, the White House considered issuing an executive order which would have extended the bargaining rights of employee unions of Federal workers; however, the order was not issued. The indications were that controversy existed within the administration as to what constituted a proper employee-management relations policy and that the controversy extended even into the Cabinet.

The area of employee-management relations continued to receive considerable attention, however, from the Civil Service Commission. The Commission issued guidelines to the agencies on the subject in 1954, and in its Annual Report for the fiscal year 1956, employee-management relations were discussed quite thoroughly. While asserting that employee-management relations in the Federal service were good, the Commission nevertheless called for improvement. The general tenor of the Commission's remarks was that the individual agencies were primarily responsible for developing effective programs. It stated that "it would be a serious error to prescribe uniform, inflexible, and detailed procedures for all agencies...".[48] The

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[48] Annual Report of the Civil Service Commission, fiscal year 1956, Washington, United States Government Printing Office, 1956, p. 17.

Commission did, however, recognize that it had a definite responsibility in the area and promised to give considerable attention to the subject.

The Commission appeared to be advocating greater consultation between agencies and employee organizations rather than collective negotiation between the parties. It asserted that "generally speaking, heads of Federal agencies cannot negotiate, bargain, and enter into agreements with employee organizations as if they were the chief executive officers of private companies."[49]

The Rhodes-Johnston Bill

During the 1950's the pressure mounted in Congress for enactment of legislation providing a formal system of employee-management relations in the Federal service. For a number of years, bills along this line had been introduced in both Houses of Congress by Senator Olin Johnston and Representative George Rhodes. In 1952, a bill was reported to the floor of the House of Representatives, but no action was taken on it. In 1956, a bill was reported in the Senate, but again no action was taken. In 1958, extensive hearings were again held by a House

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[49]Ibid., p. 18.

Committee, but this time the administration was able to prevent the bill from reaching the floor.

It is fortunate that the Rhodes-Johnston bill was not enacted. Even assuming that legislation was desirable, and the author believes that it was, the bill proposed was not the answer to the need. It would have provided the employee organizations with excessive power which could have been used to disrupt the effective operation of the Government.

The Rhodes-Johnston bill may be severely criticized on at least three different points--its compulsory arbitration feature, the provision requiring the suspension, demotion, or removal of officials who made rulings which were later determined to have been incorrect, and the unfair position in which non-union employees would have been placed.

The arbitration proposal was that disputes between agencies and unions be referred to a board of arbitration composed of one representative of management, one representative of labor, and one representative appointed by the Secretary of Labor. The areas subject to arbitration included labor-management cooperation, grievances, appeals, rates of pay, promotions, working conditions, and a host

of other topics. Furthermore, the findings of the board of arbitration were to be final and binding.

The system of arbitration proposed in the bill is at variance with the practices developed and used in private industry. First offall, it is compulsory, final, and binding. Secondly, the language of the bill includes as appropriate for arbitration virtually every area of management determination whereas the general practice in industry is for a collective bargaining agreement to specify the matters which may be arbitrated. Thirdly, the total cost of arbitration would be bourne by the Government agency concerned. In arbitration involving disputes in industry, the cost of arbitration is generally shared by the parties. Since arbitration would cost the unions nothing, they would be encouraged to arbitrate every dispute rather than attempting to work out a compromise.

The Rhodes-Johnston arbitration can also be criticized because it would divest agency management of the authority necessary to manage their programs and would place the authority instead with the Secretary of Labor. As one author stated:

> Should this bill be enacted, the Secretary of Labor, who heretofore has been among the most impotent of top-ranking government officials, would fall heir to more power and authority than ever before has been exercised by an appointive official of the government.[50]

Over the years, the Department of Labor has been looked upon as being representative of organized labor. This being the case, it is doubtful that the Secretary of Labor could be looked upon as a completely impartial arbitrator of labor disputes. In 1958, in a move to eliminate criticism, it was proposed that this responsibility be placed with the Civil Service Commission rather than with the Secretary of Labor.

The bill provided for the mandatory suspension, demotion, or removal of an official whose administrative ruling was subsequently overturned by a board of arbitration. This provision would cause chaos and would place officials in an untenable position. For instance, the bill includes promotions as being an area subject to arbitration. Supposing an employee felt that another employee was given a promotion which he himself deserved. He could file a grievance through his union which

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[50]Wilson R. Hart, Collective Bargaining in the Federal Civil Service, New York, Harper and Brothers, 1961, p. 149.

eventually would be either resolved in his favor or referred to a board of arbitration. Should the board rule that the supervisor erred in making the selection for promotion, the agency head then would be required to initiate disciplinary action against him. The minimum penalty would be suspension for a term not specified.

The bill would provide union members with distinct advantages over non-members thus virtually forcing a union shop arrangement. The proposed legislation did not provide for individual employees presenting grievances to a board of arbitration nor did it require unions to represent non-members in presenting grievances to the arbitration board. It is unreasonable to believe that a supervisor would not give this consideration when he was choosing between a union member and a non-union member for promotion. He could save himself a lot of grief by simply giving the promotion to the union member.

The President's Special Assistant

In September 1957, President Eisenhower issued Executive Order 10729, establishing the post of Special Assistant to the President for Personnel Management. Mr. Rocco Siciliano was appointed to the post and proceeded to take an active interest in employee-

management relations. In 1958, he issued a memorandum to heads of agencies calling for a more improved program of labor relations. Very little change developed in the agencies as a result of the memorandum probably because there was a lack of visible support from the President himself and through a lack of follow-up by administration officials. In 1959, Siciliano resigned and was replaced by Eugene Lyons. The latter did not enjoy very good relations with unions.

Veto of a Pay Raise

The Eisenhower administration ended on a "sour note" as far as Federal employees were concerned. President Eisenhour vetoed a pay raise bill. The Congress took the unusual step of overriding the veto, and the pay raise became law. The bill was probably vetoed at least in part for budgetary reasons and not primarily because the raise was unjustified. Eisenhower showed a commanding interest throughout his administration in a balanced budget and after running a record peace time deficit of $12.4 billion in 1959, he was especially sensitive to deficit financing. He did not want to end his presidential service with a red ink year.

The preceding analysis is not supported by the veto message, but the staff people who drafted the message could hardly be expected to identify the veto with budgetary considerations. The President asserted in his veto message that the pay raise legislation was hastily drawn and was not equitable. He further contended that it was unjustified and took the employee unions to task for the extent of their lobbying in behalf of the pay bill. He felt that the unions had exceeded the limits of propriety by exerting "intensive and unconcealed political pressure....flagrantly and in concert on members of Congress."[51] This surely is a naive attitude. On Capital Hill, intensive and unconcealed political pressure is the rule rather than the exception. Why should Federal employees be criticized for aggressive lobbying any more than the gas and oil interest, or the National Association of Manufacturers, or the AFL-CIO, or the Chamber of Commerce, or any of a number of other groups?

As far as Federal employees were concerned, 1960 was again a "time for a change." Morale was low, and

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[51] 106 Congressional Record 19666 (1960).

both Kennedy and Nixon were looked upon as men of political experience who would have a greater understanding of the needs and aspirations of the Federal employees. When Kennedy emerged as the winner of the 1960 election, the stage was set for improved employee-management relations in the Federal service.

The Kennedy Task Force

On June 22, 1961, President Kennedy designated a special task force to review and advise him on employee-management relations in the public service. It consisted of Secretary of Labor Goldberg, designated as chairman, Secretary of Defense McNamara, Postmaster General Day, Budget Director Bell, Civil Service Commission Chairman Macy, and the President's Special Counsel, Theodore Sorensen. The prestige of the members of the Task Force was sufficient to impress upon the departments and agencies of the Government the interest that the President had in the study and to insure their cooperation.

In his memorandum establishing the Task Force, Kennedy enunciated his basic philosophy as to employee-management relations in the Federal service stating:

> The rights of all employees of the federal government to join and participate in the activities of employee organizations, and to seek to improve working conditions and the resolution of grievances should be recognized by management officials at all levels in all departments and agencies. The participation of federal employees in the formulation and implementation of employee policies and procedures affecting them contributes to the effective conduct of public business. I believe this participation should include consultation by responsible officials with representatives of employees and federal employee organizations.[52]

The President gave the Task Force a very specific but at the same time very broad charter for its review stating:

> This study will cover the broad range of issues relating to federal employee-management relations, including but not limited to definition of appropriate employee organizations, standards for recognition of such organizations, matters upon which employee organizations may be appropriately consulted, and the participation of employees and employee representatives in grievances and appeals. In the course of this study employees and employee organization representatives, department and agency officials, consultants in labor-management relations, and interested groups and citizens shall be given an opportunity to present their views for the consideration of the task force.[53]

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[52] President's Task Force on Employee-Management Relations in the Federal Service, A Policy for Employee-Management Cooperation in the Federal Service, Washington, United States Government Printing Office, November, 1961, p. ix.

[53] Ibid.

Two other important issues were faced in the President's memorandum. First of all, he "directed" agency heads and their staffs to cooperate with the Task Force. Secondly, he established a specific date, November 30, 1961, for the Task Force to submit its findings and recommendations to him. Thus, the President attempted to guarantee the success of the Task Force by (1) stating a basic philosophy from which it could work, (2) giving it a broad yet specific charter, (3) requiring the cooperation of departments and agencies with the Task Force, and (4) establishing a specific date for the completion of the study. The nature of the President's initial charter of the Task Force cannot be overemphasised since many studies and many programs fail just because of the absence of visible and strong support by the President and other principal members of the administration.

The Task Force Study

The Task Force used several tools in pursuing its review. First of all, the professional staff of the Task Force developed background papers on a wide range of topics. Secondly, a questionnaire was sent to Government agencies. Thirdly, a questionnaire was sent to

organizations of Federal employees. Fourthly, hearings resulting in approximately 1600 pages of oral testimony from 117 witnesses were held in seven major cities, Washington, New York, Chicago, Atlanta, Dallas, Denver, and San Francisco. Fifthly, Federal agencies were invited to submit written recommendations to the Task Force. The result was probably the most thorough and extensive review of the Government's labor relations policy in the history of the nation.

A comprehensive review of the Task Force's work will not be undertaken here although several generalizations will be drawn. It is well to remember, however, that they are generalizations. An attempt to succinctly describe the employee-management relations of all of the departments and agencies of the Government would be foolish indeed. It cannot be done without an appreciable sacrifice of accuracy. Digressing only slightly, it may be pointed out that one of the greatest problems in administration--all administration not just personnel administration--in the Government results from attempts to overly generalize about the nature of Government and from attempts to force all governmental operations into rather rigid molds. The Bureau of the Mint and the

Bureau of Accounts, both in the Treasury Department, have less or certainly no more in common than do Reynolds Metals and the Chase Manhattan Bank, yet the two government agencies must operate under essentially the same administrative ground rules. Conversely, the two private firms have wide latitude in their administrative practices.

Findings of the Task Force

One fact that the Task Force established with a reasonable degree of accuracy was the size and composition of employee unionism in the Federal service. Surprising as it may seem, reliable and supportable data on this subject were not heretofore available. Even that which the Task Force developed no doubt contains some degree of error; however, the Task Force staff stated that while there may be some inaccuracy in the details of the estimates the overall data were considered reliable. The staff estimated that approximately 760,000 or 33 percent of all Federal civilian employees were members of unions. But, here is a clear example of generalization for over one-half or 489,000 of these union members were employees of the Post Office Department. Fully 84 percent of postal

employees were found to be union members. In four agencies over one-half of the employees were unionized. Conversely, 17 agencies had none or less than ten employees who were union members. Included among the 17 were such comparatively large agencies as the Atomic Energy Commission with 6,775 employees and the Selective Service System with 6,598 employees. Neither of the two had any union members.[54]

The Task Force did not establish detailed estimates of the strength of the various individual unions. It did, however, state that the National Association of Letter Carriers with 150,000 members and the United Federation of Postal Clerks with 145,000 members "are without doubt the largest employee organizations whose members are exclusively employed in the Federal service."[55] Thus, 38 percent of all union members were found to be associated with these two postal giants. The National

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[54]President's Task Force on Employee-Management Relations in the Federal Service, Staff Report No. 2, Employee-Management Relations Practices in the Federal Service, Summary and Analysis of Data Supplied by Federal Agencies and by Employee Organizations in Response to Task Force Questionnaires, Washington, October, 1961, pp. 9-11. For detailed statistics on union membership in the Federal Service see Exhibit 1 in Appendix B.

[55]Ibid., pp. 9-11.

Federation of Federal Employees and the American Federation of Government Employees were found to be the largest of the general government unions although no specific estimate was made of their strength. The largest single agency union outside the postal service was found to be the National Association of Internal Revenue Employees with a membership of 25,000.[56]

As might have been expected there was a rather sharp disagreement between government agencies and unions as to the degree and quality of employee-management relations in the Government. Oversimplifying slightly, the agencies felt that their policies and practices were already good. The unions did not.

The task force staff summarized agency views as follows:

> Forty of the agencies report that no exceptional problems have been encountered in their employee-management relations. The remaining 17 have reported on a variety. A number of these problems center about criticism by the agencies of some form of employee organization behavior. Seven agencies, among them some of the largest in the Federal government, complain that employee organizations have inexperienced and/or irresponsible leaders....
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> Three agencies have indicated some degree of sensitivity over the practice of employee organizations appealing to higher authority from their decisions....

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[56] Ibid., p. 11.

> Jurisdictional disputes and associated problems are bothersome to four responding agencies....
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> Less frequent are reports of problems: (1.) concerning the lack of internal working relations and the ineffective organizational arrangement of a council of organizations...., (2.) the fact that employee organizations at times waste government time on trivial complaints...., (3.) employee organizations do not accept the grievance and disciplinary procedures of the Department...., and (4.) the objections raised by employee organizations to the existence of employee councils on the grounds that such councils, as subsidized organizations, are inordinately privileged....
>
> Another group of problems concern themselves generally with management contentions that employees individually fail to conform their behavior to standards which would result in effective employee-management relations.[57]

Thus, it appears that the management of most agencies felt that their employee-management relations were good, and that in those instances where this was not true, the fault was with the unions.

The unions voiced many complaints--some specific and some general in nature. The International Association of Machinists contended that:

> ...the whole government labor-management policy is predicated upon the paternalistic approach, and is designed to resist any

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[57] Ibid., p. 23.

> encroachment from outside sources which would threaten the unilateral exercising of the whims of supervision or management officials. Employees are placed in a category of citizens who are expected to give up all inherent rights as members of the human race, and are relegated, and held in a state of complete subjection to management's unilateral decisions. Employees are faced with the awful position of having the prosecutor, jury, judge and executioner composed into one person in matters affecting their grievances, appeals, working conditions, etc. There is no opportunity for an impartial review and decision relating to improper, unfair or archaic management decisions.... The relations between [labor and management] are 75 years behind the accepted modern day labor-management relations which the government requires by law and are to exist between employers and unions in the private segment of our society.[58]

Other complaints most often voiced by the various unions include that agency officials were often arbitrary and authoritarian in outlook, that local officials often refused to follow the policies promulgated by headquarter's officials, that local officials were obstructive and antagonistic, that line supervisors were not

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[58]President's Task Force on Employee-Management Relations in the Federal Service, Staff Report No. 6, Labor-Management Relations in the Federal Service as Reported by Organizations of Federal Employees, Summary and Analysis of Data Supplied by Employee Organizations in Response to the Task Force Questionnaire, Washington, 1961, pp. 27-28.

properly trained in employee-management relations, that some supervisors actively discouraged union membership, that unions or their officials were not accorded proper recognition or respect, that there was a lack of bona fide labor-management negotiations, that even when management asked for union views the final decision on the subject at hand had been made prior to consultation, and that management subsidized employee councils, comparable to company unions, have improperly competed with legitimate unions.[59]

It is necessary to give some balance to the previously stated views. There were some agencies which the Task Force found to be far more advanced in their labor relations policies and practices than most government agencies and which indeed the employee organizations recognized to be progressive and fair. The agencies which were considered to be rather sophisticated in their labor relations programs were the Tennessee Valley Authority, segments of the Department of the Interior, and the Post Office Department.[60]

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[59] Ibid., pp. 27-31.

[60] President's Task Force, Staff Report No. 2, pp. 1 and 17.

The first two enjoy fine reputations with employee organizations while the latter is subject to some criticism. Nevertheless, the Post Office Department was found to be markedly ahead of most agencies in its labor relations. It really has to be since it is so highly unionized.

The Task Force found that 22 Federal agencies, mostly small ones, did not have any stated labor relations policies. The large agencies in this group were the General Accounting Office (4,988 employees), the Interstate Commerce Commission (3,262 employees), and the Department of Justice (30,842 employees). Eleven agencies including the Department of State (14,053 employees) were found to have minimal policies.[61]

Little attempt has been made thus far to present a comprehensive or balanced summation of the Task Force's survey. Rather, the preceding facts have been sifted from volumes of Task Force papers to present an awareness of the problem areas involved and of the magnitude of the problems involved. The Task Force report to the President probably represents as objective an evaluation

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[61] Ibid., p. 17.

of the study as is possible of attainment and that report shall be quoted liberally. The report states:

> The absence of Presidential policy at this late date is an unnecessary situation; in many ways it is an anomalous one. For a quarter century it has been the public policy of the Government to encourage employees in private enterprise to organize and deal collectively; yet the Government continues to have almost nothing to say concerning the role of organizations of its own employees....
>
> The Task Force wishes most emphatically to endorse the President's view that the public interest calls for a strengthening of employee-management relations within the Federal Government. A continuous history, going back three quarters of a century, has established beyond any reasonable doubt that certain categories of Federal employees very much want to participate in the formulation and implementation of personnel policies and have established large and stable organizations for this specific purpose. This is not a challenge to be met so much as an opportunity to be embraced.[62]

The Task Force went on to state:

> It should also be expected that the development of employee-management relations in the Federal Service will have the effect of making the role of government management clearer and better defined. The Task Force welcomes this prospect. One of the principal needs of the Federal service today is the development of a more emphatic concept of management responsibility on the part of

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[62]President's Task Force, A Policy for Employee-Management Cooperation in the Federal Service, p. 6.

> government officials who have functions similar to those of managers in the private sphere.[63]

Specific Recommendations of the Task Force

The Task Force did not limit itself to the general statements just quoted but recommended a rather specific program of labor-management relations for the Government. Furthermore, it specifically recommended that its proposals be implemented by means of an executive order except in one minor instance where legislation would be required.

The Task Force asserted that Federal employees have the right to join or refrain from joining bona fide employee organizations, and that the Government should willingly enter into collective bargaining with employee organizations which represent appreciable numbers of employees. A caveat was placed on this right restricting it to those organizations which do not practice discrimination based on "race, color, creed, or national origin, which are free from all corrupt influences, and do not assert the right to strike or advocate the overthrow of

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[63] Ibid., p. 3.

the Government of the United States."[64] It further recommended three levels of recognition which agencies should grant to employee organizations. The highest level would be exclusive recognition which would be granted where an organization represents the majority of the employees in an appropriate unit. In this case, the organisation would have the right to enter into collective negotiations with the officials of the agency. The second level of recognition would be designated as formal. Formal recognition would be granted where an organization represents ten percent of the employees in a unit providing that no organization has been granted exclusive recognition in that unit. An organization granted formal recognition would have the right to be consulted by management on matters of interest to its members. The third and lowest level of recognition would be informal. Informal recognition would be granted without regard to recognition extended to other organizations, and would permit the organisation to be heard in regard to matters of interest to its members but without obligating the agency to seek its views.

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[64] Ibid., p. iv.

The Task Force felt that working conditions and personnel policies were areas subject to negotiation or consultation between management and employee groups. It pointed out that agreements could not be entered into which conflict with Federal law, regulations of the Government or the agency concerned, central personnel policies, or with the merit system principles. Furthermore, agreements could not be negotiated in areas of personnel policy over which the Congress has maintained authority. It was also asserted that the union shop and the closed shop were not appropriate in the Federal Government. Arbitration was not to be used in resolving impasses in negotiation. Rather other means were to be devised and used to accomplish settlements. This is one area where the Task Force was not specific, and it offered little positive guidance. Agreements resulting from negotiations with organizations having exclusive recognition should be reduced to writing, while management decisions in matters on which formally recognized employee organizations have been consulted may be communicated in writing to the organization.

It was recommended that the employee organizations be given a recognized role in grievance procedures, and

the Task Force recognized that agencies and exclusively recognized organizations should be permitted to provide by agreement for advisory arbitration. A more uniform system of appeals and adverse actions was recommended, including the extension of the same rights to non-veterans as those possessed by veterans in appealing adverse actions to the Civil Service Commission.

The Task Force asserted that recognition of employee organizations would not change the existing relationships between veteran's organizations and agencies of the Government nor should it preclude limited dealings by agencies with employee organizations which exist for social or religious purposes.

The services that the Government might provide to employee organizations were briefly covered in the Task Force recommendations. The recommendations in this area, with one exception, were not too significant. The exception was that voluntary dues withholding from members pay be permitted, providing the employee organization concerned pay the cost. Implementation of this recommendation would require the authorization of the Congress. Other recommendations were that bulletin boards be available to employee organizations and that

officially approved or requested consultations with unions be permitted on official time. However, an agency could require that negotiations with exclusively recognized employee organizations take place on the employees' time. Furthermore, the use of official time for the conduct of internal union business was forbidden.

Finally, the Task Force recommended that the Civil Service Commission and the Department of Labor provide the technical services required to implement its proposals in the Government.

Implementing the Task Force Recommendations

The recommendations of the Task Force were submitted to the President on November 30, 1961. Less than a week later, on December 5th to be exact, President Kennedy commented publicly on the report and directed that an executive order be prepared to implement its recommendations. On January 17, 1962, he signed Executive Order 10988,[65] promulgating a policy for employee-management cooperation in the Federal service which closely paralleled the Task Force recommendations. Five days

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[65] 27 Federal Register 551. See Exhibit 2 in Appendix B for text.

earlier, on January 12, he had issued Executive Order 10987,[66] which required each agency head to establish an internal appeals system which would allow employees to protest discharges and other adverse actions.

Executive Order 10988 established the President's Temporary Committee on the Implementation of the Federal Employee-Management Relations Program consisting of the Secretary of Labor, as chairman, the Secretary of Defense, the Postmaster General, and the Chairman of the Civil Service Commission. In addition to overseeing the implementation of the program, the Committee was charged with advising the President relative to proposed standards of conduct for employee organizations and a proposed code of fair labor practices in the Federal Service. The Department of Labor and the Civil Service Commission were jointly charged with drafting these proposals for submission to the Committee.

Agency heads were directly responsible for implementing the Government's new employee-relations program by July 1, 1962; however, the Civil Service Commission, as the central personnel agency of the

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[66] 27 Federal Register 550. See Exhibit 3 in Appendix B for text.

Government, was charged with the responsibility of providing technical assistance and guidance to the agencies. In carrying out its responsibilities, the Commission issued guidelines on implementation of the executive orders. In addition, training materials were developed, and workshops and training institutes were conducted throughout the country for personnel officials and management representatives. The Department of Labor was also assigned an integral part in the implementation of the new employee-management relations program. In the event of disagreement between an agency and an organization as to the proper unit of representation, an arbitrator recommended by the Federal Mediation and Conciliation Service could be called in to give an advisory opinion. The arbitrator could also be called on to advise as to whether an employee organization represented the majority of the employees in a unit. The means of determination could be by an election or by such other means as considered appropriate.

The agencies met the July 1, 1962, deadline for issuance of appropriate rules and regulations implementing the employee-management cooperation program. Thus, for the first time, the Federal Government had a planned and

coordinated program for dealing with its employees and employee organizations including a clear statement of the rights of employee organizations. The President further clarified the Government's policy when he promulgated, on May 21, 1963, standards of conduct for employee organizations and a code of fair labor practices.[67]

Employee-Management Relations--July 1962 to Present

It is too soon to objectively appraise the results of the existing employee-management cooperation program on the Federal service. In fact, it will be difficult to ever precisely measure the results. For instance, one reason advanced for initiating the program was that it would "contribute to the effective conduct of the public business."[68] Now, this is about as general a statement as can be made. One would despair of ever proving or disproving an assertion that the present program is

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[67] 28 Federal Register 5127.

[68] President's Task Force, A Policy for Employee-Management Cooperation in the Federal Service, p. 1.

contributing to the effective conduct of the public business any more than the programs in existence prior to the issuance of the Kennedy Executive Orders.

It is equally difficult to appraise in the short run the success of the program from the point of view of the employee organizations. How should success be measured? Should it be in terms of an increased union membership or in terms of the increased power and prestige of the unions? Or, perhaps it should be judged on the basis of the tangible benefits derived for the employees. Or, should statistical formuli be developed to mix these elements and others to arrive at an index by which success can be measured? Assuming that few tangible benefits have been attained, and this seems to be the case, it can still be argued that an increase in union membership now is a firm indication of success since it lays the foundation necessary to achieve tangible gains in the future.

The only measurable result of the additional freedom and encouragement now being afforded employee organizations is found in the data relating to the increased representational activities of the unions. By early 1965, 627 exclusive units were recorded by the Civil Service

Commission covering 760,000 employees. Fully 245 of these units with 660,000 employees had negotiated agreements between management and labor.[69]

In viewing the progress of unionism in the Government during the Kennedy-Johnson era, two facts stand out rather clearly. First of all, the collective bargaining process has progressed significantly in only a very few agencies, principally the Post Office Department, the Department of Defense, the Department of Health, Education, and Welfare, the Department of the Interior, the Department of Labor, the General Services Administration, and the Veterans Administration. Activity in most other agencies was slight. For instance, by late 1964, employee organizations had negotiated but one agreement covering 22 employees with the Atomic Energy Commission. The second trait that stands out is that the principal activity has been by unions affiliated with the AFL-CIO. Approximately 90 percent of the first 209 agreements negotiated, covering 87 percent of the employees subject

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[69]United States Department of Labor, Collective Bargaining Agreements in the Federal Service, Late Summer 1964, Washington, United States Government Printing Office, August 1965, p. 4.

to the agreements, were negotiated by affiliated unions.[70]

The first three years of operation of the present program of employee-management cooperation seems to indicate that considerable union activity can take place if the unions have aggressive leadership. That is not to say that with a touch of a magic wand President Kennedy transformed all of the managers in the agencies of the Government into enlightened friends of unionism. There is still some opposition by management to unionism, but it is the exception rather than the rule.

While lack of aggressive union activity in some agencies may result from the hostility or lack of cooperation by management, it probably is likely that the lack of activity is more a sign of either effectual or passive union leadership or of indifference on the part of most employees. Executive Order 10988 provided an institutional system for employees to pursue organizational activity. What employees do with their rights under the system is their affair. What is important is that they be allowed to freely exercise

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[70] Ibid., pp. 4-5.

their rights to either join or refrain from joining any organization which meets the criteria established under the system.

CHAPTER IV

UNIONISM IN THE CENTRAL GOVERNMENTS OF SELECTED ENGLISH SPEAKING COUNTRIES

It is appropriate and desirable to investigate the labor relations policies and conditions of the central governments of other nations as they relate to their civil servants. Since the United States derives its basic heritage from Great Britain, it is important that the British experience be viewed. It is equally important and interesting to see how the British heritage has influenced developments in Australia and Canada.

Great Britain[71]

It is amazing and perhaps somewhat reassuring to find that many of the problems that impeded effective administration of the Government of the United States during its early years also existed in the British Government. Thus, a patronage system resulted in

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[71]In Great Britain, industrial workers of the Government are generally not included under the same laws and regulations as civil servants but rather are included with industrial workers for the nation as a whole. This discussion relates only to civil servants.

overstaffing of the British Government, quite often with ill educated, inefficient, and incompetent employees. One author described the system as "fraught with personal privilege and open graft, overloaded with highly paid and inefficient higher officers, and understaffed with efficient lower level clerks ..."[72]

Several parliamentary inquiries were held during the mid-19th century. The inquiries led to the decline of the patronage system and to establishment of a professional career service. The era of transition was between 1855 and 1870.

As in the United States, the existence of an established and widespread patronage system tended to discourage unionism of government workers. Advancement of one's interest or protection of one's rights came not through collective action but rather through the use of political influence. The demise of the patronage system led to a similar decline in the politician's interest in the civil servant. The stage was set for the advent of unionism.

Informal associations of civil servants began to appear in the 1850's. It was not until the 1890's that

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[72]B. V. Humphreys, Clerical Unions in the Civil Service, London, Blackwell and Mott, 1958, p. 17.

permanent staff associations[73] were formed, and it was not until World War I that the unions gained any appreciable degree of acceptance by the Government. As in the United States, the postal unions appear to have achieved the earliest success.

World War I--The Beginning of Change

World War I brought a decided change in the British Government and in its relations with its employees. The liberalization that occurred came not from an enlightened recognition by the Government that it was desirable but from the pressure of events beyond its control. During the early years of the war, wage increases were denied employees even in the face of severe inflation, resulting in widespread unrest. The situation became so bad that a standing arbitration tribunal was created in 1917 to decide wage issues in contest between the Government and its civil employees. This marked the point in time in which a pronounced variance began to develop in the British and American experience in employee-management relations among government workers.

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[73]The term staff association is generally used in the British Commonwealth nations instead of the terms employee organization or employee union which are commonly used in the United States.

The Conciliation and Arbitration Board served to further the cause of unionism among civil servants. First of all, it would consider claims only as they related to classes of workers; thus, there was a need for unity among workers within a class. Secondly, the Board placed its primary stress on conciliation rather than arbitration. Before arbitrating a claim, departments were required to certify that efforts had been made to settle the dispute. This requirement had the effect of encouraging departments to recognize and negotiate with staff associations. The Board proved to be effective in restoring peace to the civil service.

Introduction of Whitleyism

In 1916, a sub-committee of the Cabinet was established under the chairmanship of J. H. Whitley, M. P., to study industrial relations problems. Early in 1917, the committee issued an interim report which recommended that a series of committees be established in each of the industries of the nation, consisting of representatives of employers and employees, with a view toward lessening discord and bringing the two sides together. The Government accepted the proposal and recommended the establishment of National Joint Industrial Councils,

later to be known as Whitley Councils, in the nation's main industries.

Significantly, the Government did not propose to adopt Whitleyism for its own use in dealing with employees. The civil service staff associations protested the omission of the public service from the Whitley system. The Government's position became untenable when businessmen used the Government stand as an excuse for not introducing Whitleyism in their own industries. When the Whitley committee issued its final report in late 1917, it recommended that its proposals be extended to include the Government.

The Government agreed to the principle of establishing Whitley Councils in the civil service but attempted to depart from the practices that had been recommended for private industry. Thus, the Whitley Councils were to be established without consulting with the civil service staff associations; the functions of the Councils were to be consultative and advisory only, and many areas of vital interest to the employees were not to be within the domain of the Councils. The associations opposed the Government's restrictions on Whitleyism with complete solidarity and succeeded in gaining the introduction of a pure system of Whitleyism.

While the Government had agreed formally, its officials by and large remained hostile to the spirit of Whitleyism. "With this background it was inevitable that Whitleyism should become a matter of dreary formal meeting between Official Side and Staff Side, with negotiations conducted at arm's length."[74] Although there was a gradual warming in the attitude of officials toward civil servant unionism and Whitleyism, it was not until World War II that they came to be fully accepted.

Employee-Management Relations Today

There exist in Great Britain today a rather comprehensive and orderly system of employee-management relations in the Government. It is a far more advanced system than the one in operation in the Federal Government of the United States.

Right of Association. Civil servants are free to belong to any association or trade union. Moreover, the Government encourages them to belong to associations on the theory that "the existence of fully representative associations not only promotes good staff relations but

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[74]James Callaghan, M. P., Whitleyism. A Study of Joint Consultation in the Civil Service, London, Fabian Publications, Limited, 1953, p. 4.

is essential to effective negotiations on conditions of service."[75]

Recognition of Associations. Recognition of an association by the Government is a formal act and grants to the association specific rights. They include:

> ....the right to be brought into consultation by the employing authority on proposals affecting the category of staff for which the recognition is granted, the right to be a party to any formal agreements made on their conditions of service, and the right to go to arbitration, i.e. to the Civil Service Arbitration Tribunal, when agreement cannot be reached on a matter within the arbitrable field.[76]

An association may be given national recognition, granted by the Treasury, or departmental recognition, granted by the department concerned. National recognition "enables an association to take part in discussions, negotiations, agreements, and arbitrations which affect staff in more than one Department."[77]

The requirements for recognition are not specific, only that an association must demonstrate that it is "representative of the category of staff concerned."[78]

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[75]Her Majesty's Treasury, Staff Relations in the Civil Service, London, Her Majesty's Stationery Office, 1958, p. 3.

[76]Ibid., p. 4.

[77]Ibid.

[78]Ibid., p. 5.

The numerical strength of an association is usually the principal factor in determining recognition; however, each case is judged on its merits.

Recognition may be withdrawn if an association ceases to be representative of the class or category it serves. Generally, the initiative for withdrawing recognition comes from a rival association.

The Government's position relative to unrecognized associations is as follows:

> Any staff association, however small, and whether recognised or not, is free to make representations to the Government. An unrecognised association, however, has no prescriptive right of receiving a reply, beyond an acknowledgement, to any representation it may see fit to make. In dealing with letters from unrecognised associations which involve matters of general principle Departments are expected to bear in mind that they and the recognised associations share the responsibility for agreements that have been concluded through Whitley machinery or otherwise; to be careful not to enter into arguments, explanation or justification with an unrecognised association, especially where it is in obvious rivalry with a recognised one, on any matter which is the subject of an agreement or negotiations with a recognised association or Staff Side; and above all, to refrain from invoking as an answer to complaints by unrecognised associations the existence of an agreement with a recognised association or a Staff Side and implying that that association or

> Staff Side is responsible for any defects in the agreement--since an agreement is the equal responsibility of both parties to it.[79]

Whitley Councils. In addition to the Civil Service National Whitley Council, there are Departmental Whitley Councils. The following discussion deals only with the National Council. This is not because the departmental councils are not important or effective. They are both; however, in general they so closely resemble the National Council that it would be needlessly repetitious to discuss them in detail.

All matters which affect the conditions of service of civil servants come within the scope of the Council. Decisions of the Council are arrived at by agreement between the Official Side, representing the Government, and the Staff Side, representing the civil servants. While in theory agreements are reported to the Cabinet, in practice they usually are not. In the absence of a specific act of either the Cabinet or the Parliament negating an agreement, it becomes operative. That the Government and the Parliament retain their full authority was made decidedly clear in a statement issued by the National Council at its inception.

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[79] Ibid., p. 6.

> The establishment of Whitley Councils cannot relieve the Government of any part of its responsibility to Parliament, and Ministers and Heads of Departments acting under the general or specific authority of Ministers must take such action as may be required in any case in the public interest. This condition is inherent in the constitutional doctrines of parliamentary government and ministerial responsibility, and Ministers can neither waive nor escape it.
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> It follows from this constitutional principle that, while the acceptance by the Government of the Whitley system as regards the Civil Service implies an intention to make the fullest possible use of Whitley procedure, the Government has not surrendered, and cannot surrender, its liberty of action in the exercise of its authority and the discharge of its responsibilities in the public interest.[80]

The Cabinet is responsible for appointing members of the Official Side, but it has delegated the authority to the Treasury. Members serve without a specific term of office. The chairman is usually an official of the Treasury while other members are officials of the Treasury and the Ministry of Labour, and heads and deputy heads of departments. Members of the Official Side are often themselves civil servants.

The Staff Side of the Council is responsible for filling its own vacancies and for apportioning seats among

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[80] Ibid., p. 12.

the different associations. Generally, members are full-time staff association officials although civil servants are also found among the membership.

The National Council does not meet regularly. Its business is normally transacted through committees or informally through individuals representing the two sides. Questions considered by the Council or by committees are not resolved by means of voting. Each side speaks formally as a whole and there must be agreement between the two sides if a final decision is to be reached.

Whitleyism was not introduced as a substitute for collective negotiation between the Government and staff associations but rather as a means

> ....of bringing together the whole Civil Service, or the whole staff of a Department, of promoting on each Whitley body a single viewpoint and spirit, and of giving to civil servants a voice in the management of their profession as a whole.[81]

There is still a great deal of direct negotiation between associations and management on matters of direct interest to individual associations.

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[81] Ibid., p. 13.

Has Whitleyism been successful? The British Government thinks so. "To a large extent it undoubtedly has; frank and friendly discussions have taken place and unchallenged agreements have been reached, on some of the widest issues affecting Civil Service employment."[82] That Whitleyism has succeeded in Britain does not necessarily imply that it is applicable elsewhere. Basically, it involves reaching a consensus through compromise--something that the British do quite well and many others do quite poorly. The British maintain that Whitleyism will work well only "when civil servants of all grades and classes are willing to come together, on a democratic basis, to work for interests they genuinely feel themselves to hold in common."[83]

Arbitration. Arbitration of disputes between the Government and its civil servants was first introduced during World War I, hopefully as a temporary device, but by 1925, it had become a permanent fixture.

The instrument of arbitration is the Civil Service Arbitration Tribunal which consists of an independent

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[82] Ibid.

[83] Ibid., p. 15.

chairman and one member each representing the Government and labor.

A request for arbitration may come from either side of a Whitley Council, from a recognized staff association, or from a Government department. The item presented must relate to a class of employees and not to an individual employee. Furthermore, the Government may refuse to submit to arbitration if it feels the subject proposed involves a question of policy. Certain matters including pay and allowances, annual leave, and weekly hours of work have been held to be clearly arbitrable. Other matters such as the numbers or compliments of staffs, have been held as not subject to arbitration. There are gray areas which are still subject to controversy.

Requests for arbitration must be submitted through the Ministry of Labour. The Ministry will refuse to forward to the Tribunal any matter which has not been the subject of previous negotiation; thus, there is an emphasis on reaching a settlement if possible before going to arbitration. The Ministry also attempts to get an agreement between the parties as to the terms of reference before a matter is taken before the Tribunal.

The Tribunal does not function with formal rules of evidence and its procedures tend to be rather informal. It also tends to be conciliatory, and on occasions it advises continued negotiations. While decisions of the Tribunal are not binding on the Government, as a practical matter they are accepted.

It is the fact that the Government will do things which it is not legally bound to do that accounts for its relatively good relations with its employees. While it is clearly evident that the balance of power lies with the Government, it is nonetheless true that both the Government and staff associations have used collective bargaining and joint consultation to mutual advantage. The Government has been wise enough not to abuse its superior power. It has been wise enough to realize that all wisdom, all truth, and all goodness do not lie with one party in a dispute.

Australia

Australia, in contrast to Great Britain and the United States, has established a highly formalized system of staff relations which is closely regulated by statute. True, Whitleyism in Britain is formally organized, but

it has not sanction in law, and the Government has no legal responsibilities under the system. It can, without legislation, ignore or abolish the system. What legislation there is in this area in the United States is haphazard and is more the result of circumstance than of a planned and orderly program.

Historical Development of Arbitration

The Commonwealth of Australia was formed in 1901, and as a child of this century, it avoided many of the problems in public management which had faced Great Britain and the United States. It drew upon the experience of the mother country and of the colonial administration of Australia in designing its public service. The Public Service Act of 1902 "in its coverage was far ahead of civil service enactments in other democracies, such as Canada and the United States."[84]

The Constitution Act, which established the Commonwealth, provided the Federal Government with broad powers to enact legislation in regard to conciliation and arbitration of industrial disputes. In 1904, an act

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[84]Howard A. Scarrow, The Higher Public Service of the Commonwealth of Australia, Durham, North Carolina, Duke University Press, 1957, p. 14.

was passed which established the Conciliation and Arbitration Court which was empowered to enter industrial disputes and to render judgments regarding wages, terms, and conditions of employment in specified industries. The act did not apply to the Federal public service.

The sole authority for determining the wages, terms, and conditions of public employment was the Public Service Commissioner. The Commissioner, by 1904, had recognized employee associations and announced within the limits he defined he would consult with them. The associations were not content to accept a limited role and began agitating to be brought under the Conciliation and Arbitration Act.

As in the United States, it was criticism of the administration of the postal service and of the working conditions within the service that contributed to a revision of the Government's employee-management relations program. In 1911, the Arbitration (Public Service) Act was passed. Basically, it brought the public service employees of the Commonwealth under the terms of the Conciliation and Arbitration Act of 1904, effective with the beginning of 1913.

The Conciliation and Arbitration Court was vested with extraordinary authority. It was authorized "to make awards, whose contents need not be restricted to specific claims made or to the subject matter of the claim, but which might include anything which the Court thought necessary in the interests of the public or the service."[85] The Court even had the authority to make an award which was in conflict with a law or regulation of the Commonwealth, being only required to communicate a statement to the Parliament detailing the laws or regulations with which its award conflicted. An award of the Court could not be appealed to any other court. The only restriction on the Court was the Parliament. Either House thereof could disallow an award by passing a resolution to that effect within 30 days after the award was laid before it.

The operation of the Arbitration Court was soon to draw criticism from both the Government and the staff associations. The Public Service Commissioner asserted that awards of the Court were inconsistent and were

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[85] Leo Blair, R. N. Spann, et al., Public Administration in Australia, Sydney, V. C. N. Blight, Government Printer, 1959, p. 361.

creating chaos by destroying uniformity of terms and conditions of employment within the Government. The staff associations, on the other hand, objected to the delays in settling public service claims which resulted when the Court gave priority to settling disputes in industry.

The disenchantment with the existing system led to the enactment of the Arbitration (Public Service) Act of 1920. Although this act has been subsequently amended, it is still the basic legislation in the field. It removed the public service from the jurisdiction of the Court of Conciliation and Arbitration and assigned the authority to determine the wages, terms, and conditions of public servant employment to the Public Service Arbitrator. A decision of the Arbitrator was not subject to appeal to any court but was subject to the final authority of the Parliament.

The Public Service Board

In 1922, the position of Public Service Commissioner was abolished, and in its place the Public Service Board was created. The Board is the central personnel agency of the Commonwealth Government; however, its scope of authority is much wider than its counterpart in the

United States, the Civil Service Commission. The Board exercises some of the functions such as responsibility for organization and management studies that are placed with the Bureau of Budget in the United States.

The Board is limited in its authority, however, by the jurisdiction of the Public Service Arbitrator. The Board performs the function of attempting to negotiate agreements with staff associations so as not to require arbitration. In the event arbitration is required, a representative of the Board will take part in the proceedings of the Public Service Arbitrator.

Arbitration and Staff Relations Today

The authority and functions of the Public Service Arbitrator have not changed greatly since the basic authorizing legislation was enacted in 1922. The major change came in 1952 when provision was made to permit appeal of his decisions to the Conciliation and Arbitration Court.

Any association which has been registered under the Conciliation and Arbitration Act may submit claims to the Arbitrator in behalf of its members. The Government is entitled to 14 days in which to file a formal objection to an organization claim. If it fails to do so, the

Arbitrator may issue a determination in favor of the claimant. If the Government does file an objection, it must spell out specifically and concisely the grounds for objection. A copy of the Government position is made available to the claimant organization.

At this point, the Arbitrator calls a conference, over which he presides, and in which both representatives of the employee association involved and the Government participate. This conference is conciliatory in nature and is not open to the public. In it, an attempt is made to reach agreement on as many points in the dispute as possible.

If the dispute is not resolved at the conciliatory conference, a public hearing is held for the purpose of gathering evidence. The hearing generally follows legal procedures although the Arbitrator has complete latitude in determining the procedures to be used.

When the hearing is concluded, the Arbitrator reserves his decision until he can weigh all of the evidence, from whatever source. His decision is accompanied by a statement of the reasons on which the decision was based.

The decision of the Arbitrator does not become effective until it has lain before the Parliament for 30 days. A resolution by either House will disallow the decision. Generally, the Parliament does not function as a court of appeal, but rather confines its interest to the policy questions and principles relating to a decision.

The use of arbitration in the Australian public service has been criticized on two basic points. The first is that the Government by its sovereign nature should not be subject to arbitration. The second, and the more important criticism from the practical point of view, is that it adversely affects administrative efficiency.

In spite of criticism, the principle of arbitration is well established in the public service of Australia. One author summarized the question as follows:

> But, although considerable dissatisfaction may be voiced about the existing system of arbitration, it is extremely unlikely that any move to abolish it will take place in the foreseeable future. It is a question of balancing the need for the public servant to feel that he is being justly treated against the necessity of maintaining an efficient system of Public Service control. That a system of arbitration independent of the Public Service Board

> may lower efficiency in this respect is not easy to deny; that it contributes much to the feeling that justice is being done is equally evident.[86]

Canada[87]

Canada was plagued with the same administrative problems resulting from a patronage system as Great Britain and the United States. The prime difference was that it required her longer to solve them.

Civil Service Reform

The first real effort toward reform came with the passage of the Civil Service Act of 1868. The legislation, which resulted largely from a Royal Commission report in 1860, left much to be desired. During the next 14 years, the civil service underwent four investigations. It was replaced by the Civil Service Act of 1882, which itself proved to be ineffective.

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[86] Ibid., p. 370.

[87] Excluded from this discussion are employees of Crown owned corporations which are commercial in nature such as the Canadian National Railway, Trans-Canada Airlines, and the Canadian Broadcasting Corporation. These corporations generally come within the provisions of the Industrial Relations and Disputes Investigation Act.

The administrative condition of the Government had become so bad by 1891 that two separate inquiries were set in motion. The first was by a committee of the House of Commons while the second was through a Royal Commission. Although a new Civil Service Act was passed in 1891, it did not contain most of the progressive recommendations of the Royal Commission, and the country was still left with an ineffective civil service system.

In 1908, another Civil Service Act was passed which was a definite if faltering step forward. A Civil Service Commission was established. While in theory it had extensive authority over personnel practices in the Capital city, in practice its real contribution was little more than that of conducting entrance examinations.

By 1912, another Royal Commission was convened to study the civil service. It made progressive recommendations including the extension of civil service to the entire nation. It was not until 1918 that a revised Civil Service Act was passed. This act, together with subsequent amendments including a major revision in 1961, is the basic legislation on civil service in Canada today. The Act strengthened the Civil Service Commission's authority to administer the civil service laws.

Whitleyism in Canada[88]

Almost as soon as Whitleyism was introduced in Great Britain, the Canadian staff associations began to push for its adoption in Canada. The Government was not receptive to the idea, however, and did not agree in principle to adopt Whitleyism until 1928. It agreed then only to preclude enactment of legislation requiring the establishment of a system of joint consultation. And it was fully 16 years later, in 1944, before the National Joint Council of the Public was formed.

Although Whitleyism in Canada resembles that in Great Britain there are subtle differences which distinguish the two in their operation. It is not so much in their structures as in their operations that they differ. In Canada, it often seems as if the Official Side does not possess the confidence of the Government that its counterpart in Britain enjoys. This factor leads in turn to a second, but related difference, to wit, the speed with which decisions of the Council are implemented. In Britain, decisions are normally

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[88]As in the discussion of Whitley Councils in Great Britain, the following will deal only with the National Council in Canada. On the whole, departmental councils have been rather ineffective in Canada.

implemented with reasonable dispatch. In Canada, long delays of a year or more often occur before implementation of a decision. Finally, through interpretation, the functions of the Council have been more narrowly defined in Canada than in Great Britain. For instance, pay scales are clearly within the domain of the British Council but not the Canadian Council.

The Report of the Preparatory Committee on Collective Bargaining in the Public Service, which is discussed in detail later, made the following comments regarding the National Joint Council.

> The Committee would like, however, to record in passing its appreciation of the important contribution that the National Joint Council has made to the development of employer-employee relations and the improvement of conditions of employment in the Public Service during the past twenty years. Without the experience provided and the atmosphere created by the activities of the Council and its many committees, the Service would be much less ready than it now is for the challenge represented by collective bargaining.
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> It is the hope of the Preparatory Committee that, at least within the confines of the "central administration", the parties to collective bargaining will find it both desirable and feasible to use an institution like the National Joint Council as a forum for systematic study and discussion of problems that transcend those of particular bargaining units. We believe that, if preserved and nurtured,

> the traditions associated with the Council could be put to good use in the new system and make a continuing contribution to the solution of Service-wide problems arising from the relationship between employer and employees.[89]

It remains to be seen what functions Whitleyism will serve in Canada in the future. The National Joint Council is unsure itself, and is currently reviewing its role. It is the author's opinion that it may pass out of existence or if it survives it will be largely a debating society.

The Civil Service Commission

The Civil Service Commission suffers from a split personality. Is it an arm of the Government or is it an independent arm of the State? It would seem that the first is true in practice while the latter is true in theory.

The Government has time and again publicly stated the Commission's independence. For instance, in 1956 the Prime Minister in reply to a question in the House of Commons stated "... the civil service commission is an

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[89] Report of the Preparatory Committee on Collective Bargaining in the Public Service of Canada, Ottawa, Queen's Printer and Controller of Stationery, 1965, p. 40.

independent body, established by parliament and not subject to any direction by the government..."[90]

On the other hand a representative of the Commission has usually been a member of the Official Side of the National Joint Council and in some instances has served as the chairman thereof. Furthermore, the Commission has not been noted for its independence of action or thought.

The Heeny Committee Report on Collective Bargaining

This is an era of change in employee-management relations in the Canadian Government, and the change is long overdue. Canada has certainly lagged far behind Great Britain and Australia in adopting and pursuing a progressive program of labor relations with its employees. It is debatable which nation, the United States or Canada, has a better record on the matter, though the author believes the weight of evidence would support the United States as the more progressive employer of the two.

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[90] Quoted in Saul J. Frankel, Staff Relations in the Civil Service, The Canadian Experience, Montreal, University Press, 1962, p. 122.

In August 1963, the Prime Minister appointed the Preparatory Committee on Collective Bargaining in the Public Service of Canada to lay the groundwork for the introduction of collective bargaining and arbitration into the public service. Mr. A. D. P. Heeney, an authority in the field of public administration and a former ambassador to the United States, was designated as chairman. The remainder of the committee was composed of senior Government officials including the Chairman of the Civil Service Commission.

The Heeney Committee conducted extensive and intensive studies into the Government's employee-management relations practices, and on July 2, 1965, it submitted comprehensive and detailed recommendations to the Prime Minister.

General Recommendations. The Committee while recognizing that there are constitutional limitations on collective bargaining in the public service, nevertheless recommended a bold and progressive program. It asserted:

> ....that the Public Service cannot be insulated from the economic and social environment in which it operates, and that the aspirations and expectations of its employees, and of the organizations that serve their interests, are bound to be

> affected and, to some extent at least, moulded by the conditions and practices prevailing outside the Public Service. We concluded therefore that, as far as possible, the system of collective bargaining and arbitration in the Public Service of Canada should be rooted in the principles and practices governing employer-employee relations in the Canadian community at large.91

Thus, the Committee recommended that subject to the sovereignty of the State and to the interest of the public, the Government should apply as nearly as possible the principles and processes existing in labor relations in the private sector of the economy.

It further recommended a system which would permit the Government, as an employer, to negotiate with organized employee groups as to rates of pay and conditions of employment. Another recommendation of the Committee was that a system of arbitration be established to settle disputes not solved through collective bargaining. Furthermore, provision was to be made to insure prompt implementation of collective agreements and arbitration awards. Finally, the system established must have the capacity to adapt to change as necessary with the passage of time.

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91 Report of the Preparatory Committee on Collective Bargaining in the Public Service of Canada, p. 25.

Administering Authority. The Committee considered placing authority for the administering of the proposed labor relations sytem with several existing agencies including the Ministry of Labour and the Labour Relations Board, which functionsin the industrial dispute area. It concluded, however, that a new agency should be created to administer the system and recommended

> ....that an independent Public Service Staff Relations Board be established to regulate the system of collective bargaining and arbitration: to determine bargaining units and certify bargaining agents; to provide for the conciliation and arbitration of disputes arising out of the negotiation of collective agreements and for the adjudication of grievances and the resolution of disputes arising out of the administration of agreements; and to provide such supporting services as the system may require.
>
> The Board should consist of a Chairman and four members, two chosen to be representative of employer and two to be representative of employee interests. All should be appointed by the Governor in Council for a fixed period and should have a secure tenure.92

Coverage and Rights. It was recommended that the coverage of the proposed system be as broad as practicable. Since most Crown owned corporations are already included under the Industrial Relations and Disputes

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92Ibid., p. 26.

Investigation Act, it was not considered necessary to bring them under the public service system. The only other sizable agencies omitted from coverage would be the armed forces and the Royal Canadian Mounted Police.

The Committee recommended that there be legislative guarantees of the right of employee participation in organizational activities and against interference with or discrimination against employees or employee organizations by the Government. Furthermore, firm guarantees would be given employees against intimidation by either the Government or employee organizations. The Public Service Staff Relations Board would be responsible for insuring compliance with guarantees of the law.

The Employer. One of the most difficult problems in designing a collective bargaining system for the public service involves the determination of who speaks for the Government. In this regard the Committee recommended

> ....that the Treasury Board be recognized as the spokesman for the employer for all agencies other than those identified as "separate employers"; that the status of all agencies covered by the Public Service system be stipulated in the governing statute; and that, in so far as agencies subject to Government direction and control

> are concerned, provision to be made for the status of an agency to be changed by decision of the Governor in Council.93

The Committee felt that the agencies listed as separate employers should be omitted from the central administration of the Treasury Board for varying reasons such as statutory provisions, administrative practices, and the nature of the functions performed.

The Committee recognised that the designation of the Treasury as the principal agent of the Government in collective bargaining diminished the role of departmental management. It defended its position, however, by asserting that there must be "a new emphasis on a coordinated approach to the problems of staff relations" and that this requires a "unity of management."[94] Departmental management, according to the Committee, should have an advisory role in the bargaining process, and should have a major role in the implementation and administration of collective bargaining agreements.

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[93] Ibid., p. 29. See Exhibit 1 in Appendix C for a listing of those agencies considered as separate employers and as such responsible for their own collective negotiation.

[94] Ibid.

The Bargaining Unit. In addition to its responsibility in the area of collective bargaining, the Heeney Committee was also charged with reviewing the system of position classification in use in the Canadian Government. The system in use could scarcely be called a system. It is archaic, ill-structured, and inequitable. The Committee came forward with a simplified and improved system of classification. To facilitate the new system and to prevent disruption of its introduction, the Committee recommended

> ....that the Public Service Staff Relations Board, in defining bargaining units, be required to have regard to the classification system applying to the employees concerned and to avoid bringing together in a single bargaining unit employees from different occupational categories.
>
> With respect to the "central administration", it recommends that the Public Service Staff Relations Board be instructed to determine, at the outset of the new regime, bargaining units that are consistent with the occupational groups established in the new classification system. This limitation should be removed twenty-eight months after collective bargaining becomes available to the employees in each occupational category.[95]

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[95] Ibid., p. 31. See Exhibit C for a listing of the categories and groups of positions under the proposed system of classification.

Collective Bargaining. Under the proposed system, an employee organization must represent a majority of the employees concerned if it is to obtain certification as the bargaining agent for the unit. Two or more organizations may join in concert to obtain certification providing they can assure the Public Service Staff Relations Board that they can function effectively in discharging their responsibilities.

The Committee recognized that there are areas in which the Government should not be expected to bargain. It recommended, however, that there be no legislative prohibition on the subject matter to be discussed at the bargaining table.

Arbitration. While recommending no limitation on the matters which might be discussed at the bargaining table, the Committee made specific recommendations as to the areas properly open to arbitration. The areas subject to arbitration would be rates of pay, standard hours of work, leave entitlements, and directly related conditions of employment. Items included as not arbitrable were superannuation, death benefits, accident compensation, and processes

governing appointment, transfer, promotion, demotion, lay-off, discharge, discipline, and classification.

As to the mechanism of arbitration the Committee recommended

> ....that provision be made for an Arbitration Tribunal consisting of an impartial Chairman appointed by the Governor in Council for a fixed term and two other members selected by the Chairman of the Public Service Staff Relations Board from panels established by the Board to be representative of the interests of the employees and employers to which the system applies.
>
> Subject to the provision made for conciliation, disputes arising out of a failure to negotiate a collective agreement should be referred for settlement to the Tribunal. The awards of the Tribunal should reflect the view of all three members, a majority including the Chairman or the Chairman alone and, in any event, should be signed only by the Chairman. There should be no provision for minority reports.[96]

The Committee went on to recommend that the Parliament in the enacting legislation

> ....direct the Arbitration Tribunal, in determining the terms and conditions of employment to be established by an award, to have regard, among other things, to the personnel requirements of the Service, to conditions prevailing outside the

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[96]Ibid., pp. 36-37.

> Service, to the need for appropriate internal relationships, and to what is fair and reasonable in relation to the nature of the jobs concerned and the qualifications required for their performance.97

Implementation of Agreements and Awards. The Committee was faced with the constitutional question of the degree to which the Crown was obligated to accept an adverse decision. After careful consideration, it recommended

> ....that collective agreements and arbitral awards be binding on the employee organisations concerned, on the employees they represent, and, in normal circumstances, on the employer--subject always to the availability of funds provided by Parliament. Where the national interest is at stake, however, the Governor in Council should have the power to amend or set aside an arbitral award but should be required, whenever the power is used, to table the relevant Order in Council in Parliament and provide Parliament with an opportunity to debate the issues involved.98

The Committee went on to caution that the abuse of power by the Crown would bring the system of collective bargaining into disrepute.

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97 Ibid., p. 36.

98 Ibid., p. 37.

The Future. The Government still has the recommendations of the Heeney Committee under advisement. The chances are reasonably good that the greater part of the recommendations of the Committee will be accepted in the near future. If this happens, Canada will have a progressive and formal system of employee-management relations for its civil servants. It will be interesting to observe the system in operation to see what, if anything, we in the United States can learn from it.

CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

Generally speaking, the Government currently enjoys good relations with its employees. True, there are occasional, perhaps even frequent, complaints from employee organizations about various matters, but is that not according to the natural order of things? As the old adage goes, "it is the squeaky wheel that gets the grease," and it is a prime function of unions to provide a loud, penetrating, and frequent squeak.

There are, no doubt, organizational areas in the Government where the spirit of progressive employee-management relations is quite feeble if not altogether dead. It is in these areas that unions can fulfill a useful and vital function. They can, they should, and they must forcefully bring these areas to the attention of top management and to the Congress and the public when necessary.

Revision of Current Policy

There should be no major revision in the Government's present policy of employee-management relations in the near future.

Executive Order 10988, which implemented the recommendations of the Kennedy Task Force, was an important if measured step forward in the Federal Government's employee-management relations policy. The program currently in existence clearly permits employees an ample opportunity to associate collectively for the purpose of seeking their betterment, and provides employee organizations with the opportunity to grow and to expand their sphere of influence. Furthermore, the Government has forthrightly recognized the right of employee organizations to negotiate agreements with it. Hence, the Government has demonstrated a willingness to move away from an autocratic and paternalistic system of employee-management relations, and to establish in its place, a democratic and progressive one.

So long as the Government adheres to the policies which it has promulgated, including negotiation in good faith with labor, it should not be criticised for failure

to take the initiative in the further liberalisation of its policies. Any revision in the current program should come about as a result of collective negotiation between labor and management. Thus, if labor wants revisions in policy, it should seek those revisions at the bargaining table.

Now that there is a clear and progressive system within which they can operate, the employee organizations must assume the responsibility for developing and extending unionism in the Government. In candor, it must be said that the four years since adoption of Executive Order 10988 have not been marked with a burst of energy on the part of most employee organizations nor with great and notable achievements. True, there has been a lot of motion, a lot of words, a lot of frills, and a lot of claims, but when the facade is torn away, the solid, tangible achievements are not impressive.

Basically, non-postal Federal employees are apathetic to unionism. The general government worker has only been awakened from his indifference at times of great peril. Otherwise, he has been content to sleep in peace, relying on the postal unions to fight

his battles, or waiting patiently for a paternalistic employer to look after his needs.

Congressional Declaration of Policy

While no major revision is recommended in the Government's employee-management relations policy, there is need to establish it on a more durable basis. Today, it rests almost in its totality on Executive Orders 10987 and 10988 and on the agency regulations implementing those orders. This is the flimsiest of bases. With the stroke of a pen, the President can rescind the orders and reinstitute an authoritarian employee-management relations policy.

Legislation should be enacted enunciating a basic employee-management relations policy for the Federal Government. The policy should be essentially the same as the one now in effect by virtue of the Executive Orders. The legislation should deal only with policy and should avoid administrative technicalities. These should be left to the discretion of the President. Thus, parts of the existing Executive Orders, being administrative in nature, would not be appropriate for inclusion in the legislation.

Going beyond the policies now in effect, the legislation should establish clear guidelines as to what the Congress believes to be fair and just terms and conditions of employment for the employees of the Federal Government. Basically, this will involve a determination as to whether the Government should pursue a policy of being a model employer, of following the prevailing practice in industry, or of using its sovereign power to impose patently unfair terms and conditions of employment upon its employees.

The latter alternative should be rejected on its face since it is not appropriate to a democratic society, and since it would in the long run attract to the public service inferior employees, thus resulting in an inefficient administration of the public business.

In some areas, notably retirement and leave, the Government has been a model employer. In other areas, notably wages and insurance programs, it has more generally followed the pattern set by the more progressive employers in private industry.

It may be argued that the Government should use itself as a model for industry in establishing the

terms and conditions of employment for its employees. This argument assumes that since the Government is not faced with competition, it could afford to be generous with its employees. Implementation of the model employer concept would have the effect of forcing industry to establish terms and conditions of employment at least as generous as the Government's in those occupational areas in which industry competes with the Government for labor. The model employer concept is basically a social one.

Conversely, it may be argued that the Government should adhere to the prevailing practices in industry in establishing conditions of employment. The crux of this argument is that the economy of the United States is a market economy based primarily on the private enterprise system and that this system should be permitted to function freely in determining the terms and conditions of employment prevailing in the nation. This concept is basically an economic one.

The author adheres to the prevailing practice concept with some slight modifications. For instance, the Government should not pay less than subsistence wages even if such wages prevail in industry, because

the Government has social obligations as well as economic ones. Furthermore, as a practical matter, the Government should adhere to the prevailing practices in the more progressive of the nation's companies.

Factors Which May Influence the Future

There are economic, political, and social factors which could conceivably necessitate a major revision in the Government's employee-management relations policy.

The increasing urbanization of the nation is causing a shift of political power from the more conservative rural areas to the liberal metropolitan areas. But the effects of this shift go far beyond politics. There are social problems attendant such as a high incidence of crime, unsatisfactory housing conditions, and the disintegration of the family as the primary element of society. There are economic factors such as the inadequacy of urban transportation and the economic stagnation of the down-town commercial areas.

That these problems are going to result in greater governmental activity is already apparent. The need for

increased services has been clearly established. The major question is to what extent the Federal Government will be involved. If the Federal involvement becomes extensive and the proportion of Federal employees in the total work force increases, a new look at employee-management relations will be required.

Even more so, a new look will be needed if there is a move toward nationalization of basic industry in the United States. One cannot imagine attempting to apply the current Federal employee-management relations program to the steel workers for example.

Fortunately, it is highly unlikely that Government ownership of industry will be extended in this country in the foreseeable future. Not only is there a general aversion to public ownership in this country, the labor movement itself opposes it. This is one area in which the American labor movement is relatively unique in comparison to foreign labor movements.

This attitude of labor dates back half a century to the era of World War I when the Government briefly controlled most of the nation's railroad, telephone, telegraph, and cable companies. At the end of the war, there was sentiment for permanent ownership of these

industries by the Government. One supporter of this stand was the conservative Postmaster General, Albert Burleson.

Samuel Gompers opposed nationalisation vigorously in the 1920 convention of the American Federation of Labor. He advocated limited Government activity. He stated his views quite clearly when he said: "If I were a minority of one in this convention, I would want to cast my vote so that the men of labor shall not willingly enslave themselves to government authority in their industrial effort for freedom."[99] Though the labor leaders of recent years may be described as social progressives, they have by and large adhered to the Gompers position relative to the nationalisation of industry.

The Executive-Legislative Relationship

The Constitution is really not too specific as to the respective powers of the President and the Congress. True, it specifies broad areas of authority and responsibility, but is silent on many other questions.

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[99]Quoted in Sterling D. Spero, Government as Employer, p. 3.

The author believes that to a large degree many of the functions of the President and the Congress are completely reversed from what they should be. The Congress should establish the general policies of the Government, and the President should execute those policies. Within the confines of the policy established, the President should have broad discretion in administrative matters.

In recent years, most policy determinations have been made at the White House. True, the Congress has enacted the legislation necessary to put the policies into effect, but it has exercised but limited influence on the shape of the policy. Generally, once a policy decision has been made, legislation is drafted in the Executive Branch and is transmitted to Congress where a Member friendly to the Administration introduces it. Very little important legislation is enacted into law that is not based on Executive proposals.

The Congress is buried in minutiae. It is involved in a whole range of matters which would be more properly and more efficiently handled in the Executive Branch. To cite but a few, Congressional limitations are placed on the number of passenger

motor vehicles an agency may buy, on the number of employees in grades 16, 17, and 18 that the Government may employ, and on the total permanent positions an agency may have. None of these involve program determinations in which the Congress should have an interest. Congress should establish policies and review the programs necessary to implement those policies. The Executive Branch should be responsible for administrative determinations in carrying out those programs and should be evaluated on program accomplishments.

Even aside from political theory, it is still desirable that Congress avoid administrative matters to the maximum degree possible. It is really a matter of resource allocation. The Congress has a given amount of time and energy, and those resources should be directed where they are most productive. Furthermore, the Congress simply does not have the expertise to deal effectively with most administrative matters.

While there is a growing awareness of this problem in the Congress, little has been done in modernizing Congressional institutions, and it is unlikely that much will be done until things become so chaotic as to require

it. With the growing complexity of civilization, this time may not be far away.

Now to relate this discourse to the subject at hand, unionism and employee-management relations in the Federal Service. Given the present attitude of the Congress, the laws now in existence, and Comptroller-General interpretations of those laws, the scope of employee-management negotiation is clearly limited.

Should Congress decide to forego attempting to make administrative determinations and instead concentrate on policy matters, then greater collective bargaining could conceivably be permitted. There is precedent for permitting administrative determination of the terms and conditions of employment. For instance, in the periods of 1795 to 1818 and 1830 to 1853, departments were permitted wide latitude in determining the rates of pay for clerical employees.[100]

A move in the direction of administrative determination of the terms and conditions of employment will require a reappraisal of the policies and procedures of employee-management relations in the Federal Service. Collective bargaining should then be extended and some

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[100]Godine, pp. 219-220.

institutional system should be developed for reaching a final settlement in the event of an impasse in negotiations. This is necessary if Congress is not to become actively involved in the area again. If absolute and final authority is left with the Administration, then employee unions will be forced to resume the tactics of political action and will take their grievances to the Congress.

While the employee-management relations programs of the Governments of Great Britain and Australia have much to be commended, they are not, in toto, appropriate to the Government of the United States. The recommendations of the Heeney Committee in Canada are thought-provoking. If they are implemented in Canada, the United States will have an ample opportunity to evaluate them in operation. It is conceivable that we may profit from the Canadian experience.

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APPENDIX A

EXHIBITS RELATING TO CHAPTER II, THE DEVELOPMENT OF EMPLOYEE UNIONISM

Exhibit 1

Unions Now Functioning in the

Postal Field

National Association of Letter Carriers, AFL-CIO
United Federation of Postal Clerks, AFL-CIO
Brotherhood of Railway and Steamship Clerks
National Federation of Post Office Motor Vehicle Employees, AFL-CIO
National Association of Postal Supervisors
National Association of Post Office and Postal Transportation Service, Mail Handlers, Watchmen and Messengers, AFL-CIO
National Association of Postmasters
National League of Postmasters
National Rural Letter Carriers Association
National Star Route Mail Carriers Association
National Postal Union
National Association of Post Office and General Services Maintenance Employees
National Association of Special Delivery Messengers, AFL-CIO
National Alliance of Postal and Federal Employees
Post Office Regional Employees' Association
Mutual Association of Postal Employees

In addition to the above unions, other craft and general government unions have membership above postal employees; however, the extent of the membership is negligible.

Exhibit 2

The Gag Orders

There were four different gag orders. The first of these was issued on January 21, 1902, by President Theodore Roosevelt and read as follows:

> All officers and employees of the United States of every description, serving in or under any of the executive departments, and whether so serving in or out of Washington, are hereby forbidden, either directly or indirectly, individually or through associations, to solicit an increase of pay or to influence or attempt to influence in their own interest any other legislation whatever, either before Congress or its committees, or in any way save through the heads of the departments in or under which they serve, on penalty of dismissal from the Government service.

The second order was issued by Roosevelt on January 25, 1906, and differed from the previous order only by the addition of the phrase "or independent Government establishments" after the phrase "under any of the Executive Departments" and after the phrase "through the heads of the Departments." The third order was issued by Roosevelt on November 26, 1909, and read as follows:

> It is hereby ordered that no bureau, office, or division chief, or subordinate in any department of the Government, and no officer of the Army or Navy or Marine Corps stationed in Washington, shall apply to either House of Congress, or to any committee of either House of Congress, or to any Member of Congress, for legislation, or for appropriations, or for congressional action of any kind, except with the consent and knowledge of the head of the department; nor shall any such person respond to any request for information from either House of Congress, or any committee of either House of Congress, or any Member of Congress, except through, or as authorized by, the head of his department.

The last of the gag orders was issued by President William Howard Taft on April 8, 1912, and stated thus:

> It is hereby ordered that petitions or other communications regarding public business addressed to the Congress or either House or any committee or Member thereof by officers or employees in the civil service of the United States shall be transmitted through the heads of their respective departments or offices, who shall forward them without delay with such comment as they may deem requisite in the public interest. Officers and employees are strictly prohibited either directly or indirectly from attempting to secure legislation or to influence pending legislation, except in the manner above prescribed.
>
> This order supersedes the Executive orders of January 31, 1902, January 25, 1906, and November 26, 1909, regarding the same general matter.

Source: Annual Report of the Civil Service Commission for fiscal year 1912.

Exhibit 3

The Lloyd-La Follette Act

The Lloyd-La Follette Act was a section of the Post Office Appropriation Act for 1913 and not a separate act. As originally enacted it was as follows:

> Sec. 6. That no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing; and affidavits in support thereof; but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of removal shall be made a part of the records of the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request, and the Civil Service Commission also shall, upon request, be furnished copies of the same: Provided, however, That membership in any society, association, club, or other form or organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of

its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or groups of persons of any grievance or grievances to the Congress or any Member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with.

Source: 37 Statutes at Large 555.

Exhibit 4

Civil Service Retirement System - 1920 and Now

FEATURE	1920 Law	1960 Law
Coverage	Generally restricted to employees in the classified civil service (about 330,000 of 690,000 Federal employees).	Generally covers all employees except those serving on a short-term, intermittent basis, etc. (who are usually under social security), and small groups under other Federal retirement systems.
		Remarks: About 90 percent of more than 2.3 million employees are covered under the 1960 retirement law.
Contributions	Employees--2 1/2 percent of basic salary; no Government contribution specified.	Employees--6 1/2 percent of basic salary; employing agencies match employee contributions.
		Remarks: Matching agency contributions required since 1957.

Basic annuity formula

1920 Law

6 service classes with maximum and minimum annuity for each class. No credit for service over 30 years. Benefits related to average salary for 10 years before retirement and length of service.

Service	Minimum annuity	Maximum annuity
15 - 17 years	$ 180	$ 360
18 - 20 years	216	432
21 - 23 years	252	504
24 - 26 years	288	576
27 - 29 years	324	648
30 or more	360	720

1960 Law

Annuity related to length of service and highest 5-year average salary under this formula:

(a) 1 1/2% of "High-5" salary x 5 years of service; plus

(b) 1 3/4% of "High-5" x years of service between 5 and 10; plus

(c) 2% of "High-5" x years of service over 10.

Maximum--80% of average salary.

Remarks

1960 law permits substituting 1% of "High-5" salary plus $25 for the percentages in any or all parts of the annuity formula. This substitution permits a higher rate of annuity in the lower salary ranges.

Disability retirement

1920 Law

Any age with 15 years of service if employee became totally disabled for useful service in his job.

1960 Law

Any age with 5 years of service if employee becomes totally disabled for useful service in his job.

Remarks

Under 1960 law, employees disabled before age 60 are guaranteed minimum disability annuity benefits.

Voluntary retirement

1920 Law

No Provision.

1960 Law

Age 62 with 5 years of service.
Age 60 with 30 years of service.
Age 55 with 30 years of service.

Remarks

Slight reduction in annuity for early retirement (before age 60).

Mandatory retirement

1920 Law

Railway Mail Clerks - Age 62
Mechanics, Letter carriers)
and Post Office Clerks) - Age 65
All others - Age 70

Mandatory retirement (continued)

1960 Law

Employees generally--Age 70, but separation is not compulsory unless and until 15-year-service requirement also is met.

Remarks

Under 1920 law, separation was automatic at prescribed age, although 15 years of service were required for annuity title.

Discontinued-service retirement

1920 Law

No Provision.

1960 Law

Any age with 25 years of service. Age 50 with 20 years of service.

Remarks

Employee must be involuntarily separated without cause; annuity reduced if under age 60.

Survivor annuities

1920 Law

No Provision.

1960 Law

Automatic for qualified widows (and dependent widowers) of employees who die after 5 years' service and for dependent children. Retiring employees may elect reduced annuity with survivor annuity benefit for spouse.

Survivor annuities (continued)	Remarks
	Only benefit for survivors under 1920 law was refund of unexpended contributions and/or any unpaid accrued annuity.

This table was prepared in 1960; however, it is still a valid comparison between the initial retirement system and the present one.

Source: Civil Service Journal, October-December, 1960.

APPENDIX B

EXHIBITS RELATING TO CHAPTER III, RECENT GOVERNMENT POLICY RELATIVE TO UNIONISM IN THE FEDERAL SERVICE, 1953-1965

Exhibit 1

Federal Government Employees Membership in Employee Organizations

	Agency[1]	Total Number of Employees[2]	Members of Employee Organizations	
			Total[3]	Percentage of Total Employees
1.	Agriculture, Department of	87,537	7,500*	9
2.	Air Force, Department of	283,636	24,650	9
3.	Army, Department of the	345,614	39,331	11
4.	Atomic Energy Commission	6,775	---	--
5.	Budget, Bureau of the	441	---	--
6.	Civil Aeronautics Board	774	---	--
7.	Civil Service Commission	3,773	1,010**	27
8.	Civil and Defense Mobilization, Office of	1,720	650	38
9.	Commerce, Department of	31,256	1,040	3
10.	Defense, Office of the Secretary of	1,968	30	2
11.	Defense Atomic Support Agency	2,023	225*	11
12.	District of Columbia, Board of Commissioners	24,670	4,475*	18
13.	Export-Import Bank of Washington	263	18	7
14.	Farm Credit Administration	222	---	--
15.	Federal Aviation Agency	40,277	3,345**	8
16.	Federal Communications Commission	1,396	8	1
17.	Federal Deposit Insurance Corporation	1,293	---	--
18.	Federal Home Loan Bank Board	1,129	---	--
19.	Federal Mediation and Conciliation Service	347	---	--
20.	Federal Power Commission	928	239	26

Exhibit 1 (continued)

	Agency[1]	Total Number of Employees[2]	Members of Employee Organizations	
			Total[3]	Percentage of Total Employees
21.	Federal Reserve System	599	---	--
22.	Federal Trade Commission	855	9	1
23.	Foreign Claims Settlement Commission	54	1	2
24.	General Accounting Office	4,988	130**	3
25.	General Services Administration	29,944	2,579*	9
26.	Government Printing Office	6,770	3,670	54
27.	Health, Education and Welfare, Department of	64,847	1,950**	3
28.	Housing and Home Finance Agency	11,612	1,000	9
29.	Interior, Department of the	49,308	5,474*	11
30.	International Cooperation Administration	3,262	225	7
31.	Interstate Commerce Commission	2,406	270	11
32.	Justice, Department of	30,842	1,070	3
33.	Labor, Department of	6,738	1,706	25
34.	Library of Congress	2,863	151	5
35.	National Aeronautics and Space Administration	5,948	215**	4
36.	National Capital Housing Authority	406	125**	31
37.	National Gallery of Art	325	150	46
38.	National Labor Relations Board	1,844	455**	25
39.	National Mediation Board	35	---	--
40.	National Science Foundation	682	3	--
41.	Navy, Department of the	330,809	96,528	29
42.	Panama Canal Company	4,051	2,698	67
43.	Post Office, Department of the	582,447	489,224*	84

Exhibit 1 (concluded)

	Agency[1]	Total Number of Employees[2]	Members of Employee Organizations	
			Total[3]	Percentage of Total Employees
44.	Railroad Retirement Board	2,279	380**	17
45.	Saint Lawrence Seaway Department Corporation	159	128	80
46.	Securities and Exchange Commission	1,094	---	--
47.	Selective Service System	6,598	---	--
48.	Small Business Administration	2,640	125**	5
49.	Smithsonian Institution	1,167	96	8
50.	State, Department of	14,053	130**	1
51.	Tennessee Valley Authority	17,131	14,110*	82
52.	Treasury, Department of the	76,000	35,229	46
53.	U. S. Information Agency	3,951	100	2
54.	U. S. Soldiers Home	1,051	35	3
55.	U. S. Tariff Commission	280	---	--
56.	Veterans Administration	173,000	21,875**	13
57.	Virgin Islands Corporation	524	10**	2
	TOTALS	2,277,604	762,372	33%***

[1]C.I.A., F.B.I., and very small agencies omitted. [2]Excludes foreign nationals. [3]Excludes veteran, recreation, credit union, etc., type of employee organizations. *Includes Task Force Staff estimates. **Estimated in entirety by Task Force Staff. ***Total number of members of employee organizations as percentage of total number of employees.

Source: President's Task Force on Employee-Management Relations in the Federal Service.

Exhibit 2

Executive Order 10988

Employee-Management Cooperation in the Federal Service

WHEREAS participation of employees in the formulation and implementation of personnel policies affecting them contributes to effective conduct of public business; and

WHEREAS the efficient administration of the Government and the well-being of employees require that orderly and constructive relationships be maintained between employee organizations and management officials; and

WHEREAS subject to law and the paramount requirements of the public service, employee-management relations within the Federal service should be improved by providing employees an opportunity for greater participation in the formulation and implementation of policies and procedures affecting the conditions of their employment; and

WHEREAS effective employee-management cooperation in the public service requires a clear statement of the respective rights and obligations of employee organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States by section 1753 of the Revised Statutes (5 U.S.C. 631), and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

Section 1. (a) Employees of the Federal Government shall have, and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity. Except as

hereinafter expressly provided, the freedom of such employees to assist any employee organization shall be recognized as extending to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress or other appropriate authority. The head of each executive department and agency (hereinafter referred to as "agency") shall take such action, consistent with law, as may be required in order to assure that employees of the agency are apprised of the rights described in this section, and that no interference, restraint, coercion or discimininiation is practiced within such agency to encourage or discourage membership in any employee organization.

(b) The rights described in this section do not extend to participation in the management of an employee organization, or acting as a representative of any such organization, where such participation or activity would result in a conflict of interest or otherwise be incompatible with law or with the official duties of an employee.

Sec. 2. When used in this order, the term "employee organization" means any lawful association, labor organization, federation, council, or brotherhood having as a primary purpose the improvement of working conditions among Federal employees, or any craft, trade or industrial union whose membership includes both Federal employees and employees of private organizations; but such term shall not include any organization (1) which asserts the right to strike against the Government of the United States or any agency thereof, or to assist or participate in any such strike, or which imposes a duty or obligation to conduct, assist or participate in any such strike, or (2) which advocates the overthrow of the constitutional form of Government in the United States, or (3) which discriminates with regard to the terms or conditions of membership because of race, color, creed or national origin.

Sec. 3. (a) Agencies shall accord informal, formal or exclusive recognition to employee organizations which request such recognition in conformity with the requirements specified in sections 4, 5

and 6 of this order, except that no recognition shall be accorded to any employee organization which the head of the agency considers to be so subject to corrupt influences or influences opposed to basic democratic principles that recognition would be inconsistent with the objectives of this order.

(b) Recognition of an employee organization shall continue so long as such organization satisfies the criteria of this order applicable to such recognition; but nothing in this section shall require any agency to determine whether an organization should become or continue to be recognized as exclusive representative of the employees in any unit within 12 months after a prior determination of exclusive status with respect to such unit has been made pursuant to the provisions of this order.

(c) Recognition, in whatever form accorded, shall not---

(1) preclude any employee, regardless of employee organization membership from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable law, rule, regulation, or established agency policy, or from choosing his own representative in a grievance or appellate action; or

(2) preclude or restrict consultations and dealings between an agency and any veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with any religious, social, fraternal or other lawful association, not qualified as an employee organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members, when such consultations or dealings are duly limited so as not to assume the character of formal consultation on matters of general employee-management policy or to extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

Sec. 4. (a) An agency shall accord an employee organization, which does not qualify for exclusive or formal recognition, informal recognition as representative of its member employees without regard to whether any other employee organization has been accorded formal or exclusive recognition as representative of some or all employees in any unit.

(b) When an employee organization has been informally recognized, it shall, to the extent consistent with the efficient and orderly conduct of the public business, be permitted to present to appropriate officials its views on matters of concern to its members. The agency need not, however, consult with an employee organization so recognized in the formulation of personnel or other policies with respect to such matters.

Sec. 5. (a) An agency shall accord an employee organization formal recognition as the representative of its members in a unit as defined by the agency when (1) no other employee organization is qualified for exclusive recognition as representative of employees in the unit, (2) it is determined by the agency that the employee organization has a substantial and stable membership of no less than 10 per centum of the employees in the unit, and (3) the employee organization has submitted to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of objectives. When, in the opinion of the head of an agency, an employee organization has a sufficient number of local organizations or a sufficient total membership within such agency, such organization may be accorded formal recognition at the national level, but such recognition shall not preclude the agency from dealing at the national level with any other employee organization on matters affecting its members.

(b) When an employee organization has been formally recognized, the agency, through appropriate officials, shall consult with such organization from time to time in the formulation and implementation of personnel policies and practices, and matters

affecting working conditions that are of concern to its members. Any such organization shall be entitled from time to time to raise such matters for discussion with appropriate officials and at all times to present its views thereon in writing. In no case, however, shall an agency be required to consult with an employee organization which has been formally recognized with respect to any matter which, if the employee organization were one entitled to exclusive recognition, would not be included within the obligation to meet and confer, as described in section 6(b) of this order.

Sec. 6. (a) An agency shall recognize an employee organization as the exclusive representative of the employees, in an appropriate unit when such organization is eligible for formal recognition pursuant to section 5 of this order, and has been designated or selected by a majority of the employees of such unit as the representative of such employees in such unit. Units may be established on any plant or installation, craft, functional or other basis which will ensure a clear and identifiable community of interest among the employees concerned, but no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized. Except where otherwise required by established practice, prior agreement, or special circumstances, no unit shall be established for purposes of exclusive recognition which includes (1) any managerial executive, (2) any employee engaged in Federal personnel work in other than a purely clerical capacity, (3) both supervisors who officially evaluate the performance of employees and the employees whom they supervise, or (4) both professional employees and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit.

(b) When an employee organization has been recognized as the exclusive representative of employees of an appropriate unit it shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without

regard to employee organization membership. Such employee organization shall be given the opportunity to be represented at discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit. The agency and such employee organization, through appropriate officials and representatives, shall meet at reasonable times and confer with respect to personnel policy and practices and matters affecting working conditions, so far as may be appropriate subject to law and policy requirements. This extends to the negotiation of an agreement, or any question arising thereunder, the determination of appropriate techniques, consistent with the terms and purposes of this order, to assist in such negotiation, and the execution of a written memorandum of agreement or understanding incorporating any agreement reached by the parties. In exercising authority to make rules and regulations relating to personnel policies and practices and working conditions, agencies shall have due regard for the obligation imposed by this section, but such obligation shall not be construed to extend to such areas of discretion and policy as the mission of an agency, its budget, its organization and the assignment of its personnel, or the technology of performing its work.

Sec. 7. Any basic or initial agreement entered into with an employee organization as the exclusive representative of employees in a unit must be approved by the head of the agency or an official designated by him. All agreements with such employee organizations shall also be subject to the following requirements, which shall be expressly stated in the initial or basic agreement and shall be applicable to all supplemental, implementing, subsidiary or informal agreements between the agency and the organization:

(1) In the administration of all matters covered by the agreement officials and employees are governed by the provisions of any existing or future laws and regulations, including policies set forth in the Federal Personnel Manual and agency regulations, which may be applicable, and the agreement shall at all times be applied subject to such laws, regulations and policies;

(2) Management officials of the agency retain the right, in accordance with applicable laws and regulations, (a) to direct employees of the agency, (b) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees, (c) to relieve employees from duties because of lack of work or for other legitimate reasons, (d) to maintain the efficiency of the Government operations entrusted to them, (e) to determine the methods, means and personnel by which such operations are to be conducted; and (f) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

Sec. 8. (a) Agreements entered into or negotiated in accordance with this order with an employee organization which is the exclusive representative of employees in an appropriate unit may contain provisions, applicable only to employees in the unit, concerning procedures for consideration of grievances. Such procedures (1) shall conform to standards issued by the Civil Service Commission, and (2) may not in any manner diminish or impair any rights which would otherwise be available to any employee in the absence of an agreement providing for such procedures.

(b) Procedures established by an agreement which are otherwise in conformity with this section may include provisions for the arbitration of grievances. Such arbitration (1) shall be advisory in nature with any decisions or recommendations subject to the approval of the agency head; (2) shall extend only to the interpretation or application of agreements or agency policy and not to changes in or proposed changes in agreements or agency policy; and (3) shall be invoked only with the approval of the individual employee or employees concerned.

Sec. 9. Solicitation of memberships, dues, or other internal employee organization business shall be conducted during the non-duty hours of the employees concerned. Officially requested or approved consultations and meetings between management officials and representatives of recognized

employee organizations shall, whenever practicable, be conducted on official time, but any agency may require that negotiations with an employee organization which has been accorded exclusive recognition be conducted during the non-duty hours of the employee organization representatives involved in such negotiations.

Sec. 10. No later than July 1, 1962, the head of each agency shall issue appropriate policies, rules and regulations for the implementation of this order, including: A clear statement of the rights of its employees under the order; policies and procedures with respect to recognition of employee organizations; procedures for determining appropriate employee units; policies and practices regarding consultation with representatives of employee organizations, other organizations and individual employees; and policies with respect to the use of agency facilities by employee organizations. Insofar as may be practicable and appropriate, agencies shall consult with representatives of employee organizations in the formulation of these policies, rules and regulations.

Sec. 11. Each agency shall be responsible for determining in accordance with this order whether a unit is appropriate for purposes of exclusive recognition and, by an election or other appropriate means, whether an employee organization represents a majority of the employees in such a unit so as to be entitled to such recognition. Upon the request of any agency, or of any employee organization which is seeking exclusive recognition and which qualifies for or has been accorded formal recognition, the Secretary of Labor, subject to such necessary rules as he may prescribe, shall nominate from the National Panel of Arbitrators maintained by the Federal Mediation and Conciliation Service one or more qualified arbitrators who will be available for employment by the agency concerned for either or both of the following purposes, as may be required: (1) to investigate the facts and issue an advisory decision as to the appropriateness of a unit for purposes of exclusive recognition and as to related issues submitted for consideration; (2) to conduct or supervise an election or otherwise determine by such means as may be appropriate, and on an advisory basis, whether an employee organization represents

the majority of the employees in a unit. Consonant with law, the Secretary of Labor shall render such assistance as may be appropriate in connection with advisory decisions or determinations under this section, but the necessary costs of such assistance shall be paid by the agency to which it relates. In the event questions as to the appropriateness of a unit or the majority status of an employee organization shall arise in the Department of Labor, the duties described in this section which would otherwise be the responsibility of the Secretary of Labor shall be performed by the Civil Service Commission.

Sec. 12. The Civil Service Commission shall establish and maintain a program to assist in carrying out the objectives of this order. The Commission shall develop a program for the guidance of agencies in employee-management relations in the Federal service; provide technical advice to the agencies on employee-management programs; assist in the development of programs for training agency personnel in the principles and procedures of consultation, negotiation and the settlement of disputes in the Federal service, and for the training of management officials in the discharge of their employee-management relations responsibilities in the public interest; provide for continuous study and review of the Federal employee-management relations program and, from time to time, make recommendations to the President for its improvement.

Sec. 13. (a) The Civil Service Commission and the Department of Labor shall jointly prepare (1) proposed standards of conduct for employee organizations and (2) a proposed code of fair labor practices in employee-management relations in the Federal service appropriate to assist in securing the uniform and effective implementation of the policies, rights and responsibilities described in this order.

(b) There is hereby established the President's Temporary Committee on the Implementation of the Federal Employee-Management Relations Program. The Committee shall consist of the Secretary of

Labor, who shall be chairman of the Committee, the Secretary of Defense, the Postmaster General, and the Chairman of the Civil Service Commission. In addition to such other matters relating to the implementation of this order as may be referred to it by the President, the Committee shall advise the President with respect to any problems arising out of completion of agreements pursuant to sections 6 and 7, and shall receive the proposed standards of conduct for employee organizations and proposed code of fair labor practices in the Federal service, as described in this section, and report thereon to the President with such recommendations or amendments as it may deem appropriate. Consonant with law, the departments and agencies represented on the Committee shall, as may be necessary for the effectuation of this section, furnish assistance to the Committee in accordance with section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691). Unless otherwise directed by the President, the Committee shall cease to exist 30 days after the date on which it submits its report to the President pursuant to this section.

Sec. 14. The head of each agency, in accordance with the provisions of this order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under section 14 of the Veterans' Preference Act of 1944, as amended. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 14 of the Veterans' Preference Act. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency. This section shall become effective as to all adverse actions commenced by issuance of a notification of proposed action on or after July 1, 1962.

Sec. 15. Nothing in this order shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any agency and any representative of its employees. Nor shall this order preclude any agency from continuing to consult or deal with any representative of its employees or other organization prior to the time that the status and representation rights of such representative or organization are determined in conformity with this order.

Sec. 16. This order (except section 14) shall not apply to the Federal Bureau of Investigation, the Central Intelligence Agency, or any other agency, or to any office, bureau or entity within an agency, primarily performing intelligence, investigative, or security functions if the head of the agency determines that the provisions of this order cannot be applied in a manner consistent with national security requirements and considerations. When he deems it necessary in the national interest, and subject to such conditions as he may prescribe, the head of any agency may suspend any provision of this order (except section 14) with respect to any agency installation or activity which is located outside of the United States.

Approved--January 17th, 1962.

John F. Kennedy

The White House,
January 17, 1962.

[F.R. Doc. 62-700; Filed Jan. 18, 1962; 10:18 a.m.]

Exhibit 3

Executive Order 10987

Agency Systems for Appeals from Adverse Actions

WHEREAS the public interest requires the maintenance of high standards of employee performance and integrity in the public service, prompt administrative action where such standards are not met, and safeguards to protect employees against arbitrary or unjust adverse actions; and

WHEREAS the prompt reconsideration of protested administrative decisions to take adverse actions against employees will promote the efficiency of the service, assist in maintaining a high level of employee morale, further the objective of improving employee-management relations, and insure timely correction of improper adverse actions;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States, by Section 1753 of the Revised Statutes (5 U.S.C. 631), by the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, et seq.), and as President of the United States, it is hereby ordered as follows:

Section 1. The head of each department and agency, in accord with the provisions of this order and regulations issued thereunder by the Civil Service Commission, and to the extent specified in such regulations, shall establish within the department or agency a system for the reconsideration of administrative decisions to take adverse action against employees. Information on the system shall be brought to the attention of all employees. Within the principles established by this order and subject to the broad guidelines contained in the regulations, each department and agency is authorized to develop such agency appeals procedures as may be appropriate to its own organizational requirements.

Sec. 2. (a) The Civil Service Commission shall, not later than April 1, 1962, issue regulations to put this order into effect and shall make a continuing review of the manner in which this order is being implemented by the departments and agencies.

(b) Nothing in this order shall be deemed to enlarge or restrict the authority of the Civil Service Commission to adjudicate appeals submitted in accordance with Chapter I of Title 5 of the Code of Federal Regulations.

Sec. 3. The Civil Service Commission in issuing regulations and the departments and agencies in developing an appeals system shall be guided by the following principles:

(1) The appeals system shall be a simple, orderly method through which an employee or former employee may seek timely administrative reconsideration of a decision to take adverse action against him.

(2) Employees and representatives of employee organizations shall have an opportunity to express their views as to the formulation and operation of the appeals procedures.

(3) An appeal shall be in writing and indicate clearly the corrective action sought and the reasons therefor.

(4) The system shall provide ordinarily for one level of appeal, except that it may include further administrative review when the delegations of authority or organizational arrangements of the agency so require.

(5) An employee who has not previously had an opportunity for a hearing in connection with the agency decision to take adverse action shall, on his request, be granted one hearing, except when the holding of a hearing is impracticable by reason of unusual location or other extraordinary circumstance.

(6) The employee shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in presenting his appeal.

(7) The employee shall have the right to be accompanied, represented, and advised by a representative of his own choosing in presenting his appeal.

(8) The employee shall be assured of a reasonable amount of official time to present his appeal.

(9) An appeal shall be resolved expeditiously. To this end, both the employee and the department or agency shall proceed with an appeal without undue delay.

Sec. 4. The head of each department and agency is authorized to include provision for advisory arbitration, where appropriate, in the agency appeals system.

Sec. 5. (a) This order shall not apply to the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, the Atomic Energy Commission, and the Tennessee Valley Authority.

(b) The Civil Service Commission, on the recommendation of the heads of the agencies concerned, may exclude classes of employees the nature of whose work makes the application of the provisions of this order inappropriate.

Sec. 6. This order shall become effective as to all adverse actions commenced by issuance of a notification of proposed action on or after July 1, 1962.

John F. Kennedy

The White House,
January 17, 1962.

[F.R. Doc. 62-699; Filed, Jan. 18, 1962; 10:18 a.m.]

APPENDIX C

EXHIBITS RELATING TO CHAPTER IV, UNIONISM IN THE CENTRAL GOVERNMENTS OF SELECTED ENGLISH SPEAKING COUNTRIES

Exhibit 1

Boards, Commissions, and Corporations of the Public Service Which Are Considered Separate Employers for Collective Bargaining Purposes

Atomic Energy Control Board

Centennial Commission

Defence Research Board

Economic Council of Canada

Fisheries Research Board

National Film Board

National Research Council

Northern Canada Power Commission

Source: Report of the Preparatory Committee on Collective Bargaining in the Public Service of Canada.

Exhibit 2

Occupational Categories and Groups

The categories and groups listed are those provisionally identified by the Bureau of Classification Revision of the Civil Service Commission on the basis of proposals developed by the Preparatory Committee on Collective Bargaining.

Executive Category

Senior Executive Group
General Executive Group

Scientific and Professional Category

Actuarial Science Group
Agriculture Group
Architecture Group
Archival and Library Sciences Group
Auditing Group
Biology and Bacteriology Group
Chemistry and Physics Group
Commerce Group
Dentistry Group
Economics and Statistics Group
Education Group
Engineering Group
Foreign Service Group
Forestry Group
Geology Group
Home Economics Group
Law Group
Medicine Group
Meteorology Group
Nursing Group
Occupational and Physical Therapy Group
Pharmacy Group
Psychology and Social Work Group

Scientific and Professional Category (continued)

Scientific Regulation Group
Scientific Research Group
Translation Group
Veterinary Science Group

Clerical Category

Communications Group
Data Processing Group
General Clerical Group
Office Equipment Operation Group
Secretarial, Stenographic, Typing Group
Telephone Operation Group

Administrative Category

Administrative Services Group
Administrative Training Group
Computer Systems Administration Group
Financial Administration Group
Information Services Group
Inspection and Methods Group
Personnel Administration Group
Programme Administration Group
Purchasing and Supply Group
Social Assistance Group

Technical Category

Aircraft Pilots Group
Drafting and Design Group
Electronics Group
General Technical Group
Photography Group
Primary Products Inspection Group
Radio Operation Group
Scientific and Laboratory Technician Group
Technical Inspection Group

Operational Category

Firefighters Group
General Labour and Trades Group
General Services Group
Heating, Power, Pump and Sanitation Group
Hospital Services Group
Lightkeepers Group
Mint Trades Group
Postal Operations Group
Printing Trades Group
Ships Repair Group
Ships' Crews Group
Ships' Officers Group
Ships' Pilots Group

Source: Report of the Preparatory Committee on Collective Bargaining in the Public Service of Canada.

A SURVEY OF EMPLOYEE UNIONISM IN THE UNITED STATES GOVERNMENT WITH COMPARISONS WITH EMPLOYEE UNIONISM IN THE CENTRAL GOVERNMENTS OF SELECTED ENGLISH SPEAKING COUNTRIES

by

William D. Van Stavoren

ABSTRACT

The purpose of this study is to review employee unionism and employee-management relations as they exist in the Federal public service of the United States.

Attention is given to the historical development of employee organizations with the record of the Government as an employer as a background. The work of the Kennedy Task Force on Employee-Management Relations in the Federal Service is reviewed together with progress in employee-management relations since Executive Order 10988 was issued implementing the Task Force's recommendations. Employee-management relations in the central governments of Great Britain, Australia, and Canada are discussed to provide a comparative framework within which the United States' experience may be viewed and considered.

As a consequence of the study, the following was concluded:

1. There is not now a compelling need to revise the Federal Government's policy on employee-management relations as promulgated in Executive Order 10988.

2. There should be a Congressional declaration of policy essentially giving statutory authority to the policies enunciated in Executive Order 10988.

3. Independent of the question of its relations with employee organizations, but in the broader context of administrative management and employee-management relations, it may be desirable for the Government to devise a means for Executive rather than Congressional determination of some of the terms and conditions of employment. As a consequence of any such action, it may be necessary to review and alter the role of employee organizations in the Federal public service.