January 22, 1970

MINUTES

STATE AND LOCAL AFFAIRS COMMITTEE
Room 526 State Capitol Building
All members present except Sen. Foster

Guests: Floyd Black
James Yont
Vernon Welling
All of AFL-CIO

Chairman, Norman E. Gaar, called the Committee to order.

Mr. Welling presented the attached statement to the Committee concerning public employee unions - rights and responsibilities.

Mr. Welling expressed that the present bills do not go far enough and that a simply bill could be drawn to permit recognition and permit grievance proceedings.

Sen. Gaar - Do you like conciliation, do you think it is important.

Mr. Yont - Yes.

Sen. Gaar - Arbitration?

Mr. Yont - Yes, if both parties agree to arbitration.

Sen. Gaar - If one party demands arbitration?

Mr. Yont - Yes.

Sen. Gaar - Do you have any objection to including teachers in your bill?

Mr. Yont - No

Mr. Black offered to the Committee that Federal employees have been organized for years. People do not strike when they know that their paycheck will stop. We would welcome a little NLRB in Kansas.

Sen. Saar - Should jurisdiction in disputes be considered?

Mr. Black - It wouldn't hurt at all.

Sen. Ball - Are all unions you refer to AFL-CIO?

Mr. Yont - Yes.

Sen. Pomeroy - Does the law enforcement provision in your proposal include firefighters?

Mr. Yont - No. They have a bill of their own pending in the House.

Sen. Pomeroy - Could they be included in your bill?

Mr. Yont - Possibly, but we would want to consult them first.

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Sen. Gaar infomed the Committee that on Friday we would hear Sen. Robinson on SB 460 and Walter Peery on SB 361.

Adjournment.

Respectfully submitted,

Charlotte M. Olander
Recording Secretary

Norman E. Gaar, Chairman

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POLICY STATEMENT ON PUBLIC EMPLOYEE UNIONS: RIGHTS AND RESPONSIBILITIES

In recent years, there has been a substantial growth in the number of public employees who have joined unions. This trend seems certain to continue at an accelerated pace as public employment -- already the largest single work force in the United States -- expands still further and as the labor movement intensifies its efforts to organize public employees.

As this growth continues, the necessity for logical, orderly methods of settling labor-management disputes in the public sector becomes more and more evident. Progress has been made in this area. President John F. Kennedy, in his historic Executive Order 10988, established a basic approach toward collective bargaining procedures in the field of Federal employment. Several states and local governments have, through statute, ordinance, or executive order, set up collective bargaining procedures for their employees. Some of these attempts have been highly successful. Others have been at least partial failures, primarily because they represented gestures in the right direction but, in practice, amounted to form more than substance.

Public employers occasionally tried to hide behind the "sovereignty concept" of government, a concept rooted in English Law dating from the period when the right of kings, i.e., of government, was considered Divine. The concept has long since been abandoned in this nation -- except occasionally where public employees are concerned. The attempt to invoke this outmoded doctrine in situations which cry out for democratic procedures and mutual understanding is to single out these workers as unworthy of dignity.

Government's refusal to bargain with its employees carries with it a substantial threat to the entire democratic concept which marks labor-management relations in the United States. It is absurd to believe that a governmental unit which signs contracts for buildings, for supplies, for services, for the purchase of real property, and for a thousand and one other things, virtually all of them secured under conditions regulated by the generally-applicable rules of labor-management relations, would seek to deny equal treatment to its own employees. The use of public funds is the same in either case.

We believe that good labor-management relations in government, as in the private sector of the economy, must be concerned with fundamental problems and fundamental relations. The certification and collective bargaining processes used in private industry have worked well, where tried, in the public area. They can be improved and expanded in the public employment field by the continued application of sound principles. Public officials must recognize that they must deal with the problems of their employees, not sweep them under the rug and hope they will stay out of sight. If public officials and public employee unions approach the problem responsibly, sound solutions will be found. Collective bargaining does work in the public interest.

Inevitably, in any discussion of the right of public employees to bargain collectively, the question of their right to strike is also raised. Because we believe that the position of this Federation should be perfectly clear, we adopt and announce the following policy:

AFSCME insists upon the right of public employees -- except for police and other law enforcement officers -- to strike. To forestall this right is to handicap free collective bargaining process. Wherever legal barriers to the exercise of this right exist, it shall be our policy to seek the removal of such barriers. Where one party at the bargaining table possesses all the power and authority, bargaining becomes no more than formalized petitioning.

The right to strike, however, is not something to be exercised casually. It should be exercised only under the most extreme provocation or as a final resort if an employer acts in an irresponsible manner. Further, let it be clearly understood: It is beyond the authority of any officer of this Federation or of the International Executive Board to call a strike. The decision to strike or to accept an agreement to end a strike can be made only by the members of a local union involved in a dispute.

We point out, further, that the prohibition on the use of the strike weapon by police and other law enforcement officers is, in this Union, absolute. For the entire existence of this Union, we have placed in the charter of every local union which includes such officers the words:

> "This charter is issued with the understanding by the parties hereto that it will be revoked immediately if the members of Local _____ who are employed as law enforcement, police, or penal officers call or participate in a strike or refuse in concert to perform their duties."

We have insisted that the same language be included in the constitution of such local unions. This practice is reaffirmed as a continuing policy.

It is not the policy of this Union to make mere gestures at collective bargaining and then resort to strikes to achieve our objectives. We look upon collective bargaining as the most democratic -- and the most realistic -- method of settling disputes over the substance of agreements between organized workers and their employers. We welcome the use of outside mediators and of genuine third-party fact finding processes as means of resolving impasses in bargaining. But efforts of this kind can be successful only if both the Union and the employer enter into bargaining in good faith. The will to reach an agreement must be present at the table.

It is for this reason, as well as because of our unwillingness to turn over to strangers the final voice in determining the wages and working conditions of our membership, that we reject the concept of compulsory arbitration to resolve bargaining disputes. Bargaining is, by its nature, a give-and-take process in which compromise and flexibility are frequently important features. If both parties know that, ultimately, an outside

party will be brought in to make a binding decision on such matters as wages and hours there is not only no pressure on the parties to reach an agreement but even a fear of making any change in their original bargaining positions, lest the final arbitrator use this attempted compromise as a starting point for further compromise. Thus, positions become hardened, resistance to the other party's proposals is increased, and the whole "bargaining" process becomes a game that is played out until the whistle blows and the referee, in some mysterious fashion, determines and announces the final score.

We believe there is a place for arbitration of disputes, but that place is the voluntary use of such procedures to settle disputes over the meaning or the application of the provisions of an existing collective bargaining agreement or in the final settlement of grievances which may arise under the terms of an agreement.