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PATting EACH OTHER'S BACKS: THE FOREIGN SERVICE BONUS SYSTEM

INTRODUCTION

If there is anything the professional Foreign Service Officer Corps approaches more avidly than its claim to supremacy on foreign policy issues, it is the protection of its independence. While it has slipped considerably in the contest with other government agencies involved in the conduct of foreign relations, it has been amazingly successful in promoting its status as an organization separate from the rest of the federal bureaucracy with broad authority to deal with many administrative and personnel matters. Its latest effort toward furthering its independent status focuses on the issue of "performance pay" for Senior Foreign Service Officers. Performance pay--a type of bonus offered to senior officers as an inducement to better performance--was authorized in the Foreign Service Act of 1980 as a counterpart to a similar bonus plan available to career executives in the Civil Service. These bonuses range from \$5,000 to \$20,000 and are awarded annually.

No one would argue that Congress was wrong to grant authority to offer Senior Foreign Service Officers the same incentive awards already available to Civil Servants. But the Foreign Service, having won the authority to grant such bonuses, also wants the recipients to be chosen by panels consisting of members of the career service while denying the Secretary of State or the heads of the other foreign affairs agencies (USIA, AID, Commerce and Agriculture)¹ the right to alter or in any way interfere with their selection. This position departs substantially from the

¹ The Departments of Commerce and Agriculture also have small Foreign Affairs units that come under the same legislation. Their employees, however, are not unionized and the performance pay issue has not risen.

rules governing Civil Service performance pay awards where peer panels may only recommend, while agency heads make the final decision as to who shall receive these bonuses and in what amounts.

Like recent efforts by the career service to secure by law a fixed percentage of ambassadorial appointments,² the bonus issue is part of a larger effort to establish the principle of an independent foreign service, free of alleged political control. From the standpoint of the management of the foreign affairs agencies, however, granting the career service autonomy in giving out performance bonuses complicates the problems of carrying out the Administration's political mandate in the field of foreign affairs. Instead of being able to reward careerists who have been especially diligent and effective in supporting the President's foreign policy efforts, loyalties would turn even further inward toward the institution itself, with the risk of turning the professional foreign affairs establishment into a kind of independent Third Estate.

Complicating the issue is the fact that many top level management positions in the foreign affairs agencies are typically occupied by career officers. If the career officer corps were to be given independent authority to determine who should receive performance pay awards, the loyalties of many in management positions would be compromised in an obvious conflict of interest.

BACKGROUND

The quest for independence from political control has long been an objective of the career Foreign Service. Winning over the key policy-making jobs in the State Department and other foreign affairs agencies for members of the career service is seen as the route to complete independence. The ultimate aim seems to be establishment of the position of Permanent Deputy Secretary of State to be filled by a career officer who would stand as a barrier between politicians and the professional foreign service. Thus protected against "politicization," the career service could, according to this line of thinking, carry out its foreign affairs activities with complete objectivity. The model is the military service, a service of trained professionals, dedicated only to protection of national interests regardless of which party may be in power.

Comparisons between the conduct of foreign relations and military operations carried out in the national defense are tenuous at best. Professional decisions in the military tend to be strategic, tactical, and frequently merely mechanical. The

² See Heritage Foundation Issue Bulletin No. 85, "An Ambassadorial Quota System," June 3, 1982.

conduct of foreign relations, on the other hand, involves many subjective judgments, most of which stem ultimately from the political and economic philosophy prevailing inside the country and reflected by the party elected to govern. Domestic policies toward growth, unemployment, inflation, support for oil exploration will all affect and may determine foreign policy toward such issues as the Middle East conflict, human rights, or the Law of the Sea negotiations. Indeed, it can be argued that in today's world there is no area where domestic and foreign policy can be completely separated.

The whole argument for a non-political foreign affairs establishment rests on the old bi-partisan foreign policy slogan that "politics stops at the water's edge." This may be true insofar as strategic issues are concerned. But in a host of areas, domestic policy extends well beyond the water's edge, automatically entailing the involvement of other governments. Yet, it is not suggested that the role of the Civil Service in executing domestic policy should be independent of political control.

Over the past thirty years, the career foreign service has succeeded in moving step by step toward the independence it so long has coveted. Its statutory basis--The Foreign Service Act--sets it apart from other government operations, justifiably, giving it a separate personnel system suited to the requirements of a staff that spends much of its career abroad. With a separate statutory base, it has, perhaps, found it easier to win certain privileges not afforded other segments of government service. The "perks" it has garnered are mostly deserved. A distinction should be made, however, between the privileges and perquisites afforded its staff and the service itself being self-administered and autonomous in a government ruled by popular election.

THE PERFORMANCE PAY ARGUMENT

Prior to the surfacing of the performance pay issue, the Foreign Service already had won a management agreement that nominations for promotion selected by career-dominated selection panels would be binding and could not be altered even by the Secretary of State. It is this precedent that is cited by the career service as the basis of its position on the bonus issue.

The promotion system thus already had established a chain of loyalties from the bottom level of the Foreign Service up to, if not including, the very top of the career service. But if performance pay awards are also to be determined in a manner similar to the current promotion system, where the career service decisions are binding on management, it is likely that the foreign service will become even less responsive to political change than it is now. Now, at least, top grade careerists are beholden to their non-career chiefs for their performance ratings and for their assignment prospects. An independently administered perfor-

mance pay program will weaken even the already tenuous oversight relationship between the career service and political leadership.

How frustrating an organization motivated by inward directed loyalties can be is suggested by Arthur Schlesinger, Jr., in his book, A Thousand Days. Schlesinger describes President Kennedy's frustration at having his personal requests to State Department officers go undeeded. (President Kennedy was known to personally phone middle grade officers in the State Department when he wished to convey some idea.) While it may have been difficult for President Kennedy to accept, if a Foreign Service Officer is forced to chose between carrying out instructions from the superior who writes his efficiency report (on which promotions are based) or from the President of the United States, he is almost certain to chose the former.

There is also a real danger that such an incestuous system --fortified by the right to give out bonuses to its own--will exacerbate an already existing "old-boy" network within the service resulting in unfair treatment of those who tend to express independent viewpoints and are unwilling to cater to the whims of superiors. Leaders of the career service who argue for independence state that their objective is to obviate injustices that may arise when a careerist disagrees with policies the party in power may wish to implement. It is folly to think, however, that similar forms of retribution are not meted out by careerists against other careerists--and often for causes that have less to do with policy than with personal differences. Averill Harriman told the Jackson Subcommittee in 1963, "I have noted that men because they haven't gotten along with one individual have been given very low ratings, when others have given them high ratings. ...Men with a spark and independence of expression are at times held down, whereas caution is rewarded."

Frequently, the "old-boy" network is blind to talent so that it is not that rare that talented personnel, buried deep in the career network are "discovered" by political appointees. One has to wonder how such "discoveries" might fare in the competition for performance pay awards in a system where career staffed selection panels had the final say.

PERFORMANCE PAY ISSUES

At this stage, the issue is being dealt with at a negotiating level while certain legal actions are under consideration. State, in the meantime, just recently issued a list of performance pay recipients for 1981 based on a career-only selection panel. State management has accepted this list without prejudice to the legal position it has taken in opposition to binding career panels, and is now negotiating with the American Foreign Service Association for a system comparable to USIA.

The American Federation of Government Employees (AFGE), representing the employees of USIA, and the AFSA, representing

State and AID, make their case on the basis of the legislative history of the Foreign Service Act as revised in 1980. They cite a House Post Office and Civil Service Committee report that states:

For promotion and career extensions, the rankings of selection boards are binding on the Secretary....Awards of performance pay to members of the Senior Foreign Service are similarly based on the rankings of selection boards.

The language is ambiguous. However, letters from Congressmen Fascell (D-Fla.) and Derwinski (R-Ill.), both members of the International Relations Committee of the House, tend to support the AFGE/AFSA view that the intent of Congress was to make the findings of the selection boards binding on the Department and Agency heads. Derwinski, for his part, asserted that while management could deny some awards recommended by the selection boards, it could only do so for budgetary reasons (i.e. for insufficient funds).

The management at State, AID and USIA, on the other hand, argue that the language of the Foreign Service Act requires the Secretary of State, in implementing the performance pay provision, "to insure compatibility of the Foreign Service Personnel system with other Government personnel systems to the extent practicable." Since the Civil Service Reform Act authorizes the Performance Review Boards only to "make recommendations to the appropriate appointing authority of the Agency," it is argued that a "compatible" system for the Foreign Service would include the same limitations.

Since agreement or compromise proved impossible, the key issues were submitted to the Foreign Service Impasse Disputes Panel by USIA, and subsequently to the Foreign Service Labor Relations Board (FSLRB). In June 1982, the FSLRB ruled that these issues are negotiable. USIA, with the support of State, AID, the Office of Management and Budget and the Office of Personnel Management, decided to take the issue to the U.S. Court of Appeals. While the case is awaiting court action, State has presented new precepts to AFSA for discussion for the 1982 bonus.

THE ISSUE OF MANAGEMENT COMPOSITION

A question of considerable importance in this regard is the definition of "management official." A peculiarity of the foreign affairs entities is that management and members of the bargaining unit frequently are the same people. Consequently, an inherent conflict of interest arises in the collective bargaining process in an agency or department overwhelmingly staffed by career people. Where a Senior Foreign Service Officer is occupying a top management position in the State Department, for example, he personally would stand to gain by taking a liberal stand in negotiations with AFSA, which would be representing his interests

on the union side. A possible solution to this dilemma would be to redefine the term "management official" in Section 1002, Subsection (12) of the Foreign Service Act of 1980 to include any member of the Senior Foreign Service. This would be fair since most Foreign Service Officers of this rank hold jobs at one time or another that involve management functions. Such a change in the definition of management official would automatically exclude Senior Foreign Service Officers from the bargaining process as members of the bargaining unit.

CONCLUSION

It is hard to imagine why the performance pay system applied to the Civil Service would not work just as well for the Foreign Service. Giving agency heads the final word as to who shall receive bonuses in the Senior Executive Service (as the top level of the Civil Service is called), has not resulted in patronage abuse or politicization of the Civil Service. The Foreign Service argument that it is somehow more vulnerable is nebulous, at best, and not substantiated by any evidence presented by proponents of career-dominated selection panels with power to make their nominations binding.

If the bonus issue is not resolved in a manner acceptable to management, undoubtedly new legislation will be sought by the Reagan Administration, perhaps simply to remove senior officers from the bargaining unit, or by broader authority. In any event, a more comprehensive review of the Foreign Service Act would seem appropriate to re-examine the question of Foreign Service accountability to political leadership. It should be possible to protect the career service from the threat of patronage abuse without giving it a degree of autonomy incompatible with the concept of an elected government capable of making changes in policies.

Nor is it in the best long-term interests of the Foreign Service that it should have so much autonomy. Execution of the performance pay authority independent of the views of management, as the Foreign Service wishes, will certainly lead to the formation of cliques, result in more favoritism, and turn the Foreign Service ever more inward. Indeed, the image of elitism and exclusivity has already contributed to a loss of influence in the foreign affairs community. In the long run, every Foreign Service Officer should appreciate that a more intimate involvement with the political process will enhance the influence of the foreign service and bring to the career service far greater rewards than the satisfaction of winning the exclusive right to choose who among them shall be the recipients of annual performance awards.

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