AFFIRMATIVE ACTION

Coalition winds Ford benign neglect in its own red tape

By Judy MacLean
Staff Writer

On Jan. 18, 1977, two days before Jimmy Carter was inaugurated as President, the *Congressional Record* recorded four minor changes in federal affirmative action regulations. Slightly strengthening affirmative action requirements, the changes would have warranted little notice except for the note from the Office of Federal Contract Compliance Programs (OFCCP), which is responsible for federal affirmative action, that "due to controversy" more significant change could not then be implemented.

The publication of those four, relatively insignificant changes—and only those four—however, marked a significant victory for a coalition of grass-roots and national women's and civil rights organizations and the culmination of a months-long campaign to prevent the Ford administration from institutionalizing its attitude of benign neglect for affirmative action.

It all began quietly last summer when word began to spread that OFCCP was in the process of "revising" its regulations and requirements for affirmative action on the part of federal contractors. In actuality, major changes were in the works.

The existing regulations were complex; women and minorities could seldom gain anything under them without legal help. But the new ones were worse. Fewer corporations would have been required to comply, and those remaining would have had to do less hiring and promoting of minorities and women.

Under existing regulations, a woman working for a federal contractor who was doing the same work as a man but receiving lower pay because her job title was different, or who felt she's been passed over for promotion because the next job was "men's work," could file a complaint and one of the OFCCP agencies would have to investigate. While in practice this often meant dumping the complaints on the already backlogged Equal Opportunity Employment Commission, the situation was better than under the proposed new regulations, which required no investigation.

The new regulations would also have exempted 4,000 of the 30,000 "prime contractors" by requiring affirmative action plans only in cases where the contract was over $100,000 and the number of employees over 100. The old rules specified $50,000 and 50 employees. In addition, the proposed regulations would have all but eliminated review of a potential contractor's affirmative action plan before a contract was actually awarded.

The story of the campaign against the new regulations, while not unique, provides an important case study of how local groups, as well as national, can act together to achieve common goals.

►Question of saving the organization.

The first to get involved were groups such as Women Employed in Chicago and 9 to 5 in Boston—groups that had regularly used the regulations in their organizing. City-wide groups, composed of clerical and other white-collar women workers, they had pressured affirmative action agencies to enforce regulations where their members worked. WE, for example, had won a $500,000 settlement for women workers at Continental National Insurance using the regulations.

"We were forced into it. Affirmative action regulations were our major tool, it was a question of saving our organizations," says Day Creamer of WE.

From long experience the working women's groups knew the new regulations were no bureaucratic error, but part of a consistent administration policy. They also knew they would not be able to count on reasonable persuasion to stop their implementation; the Ford administration would listen only to political pressure. This meant involving many other groups.

They also knew that if they could delay the regulations until after Jan. 20, Inauguration Day, and if, as expected, Carter won the November presidential election, the regulations would likely be shelved. "The strategy had to involve winding up the bureaucracy in its own red tape. We had to take their procedures and use them against them," says Creamer.

►Divide and conquer.

Rumors of changes in affirmative action regulations had begun to spread during summer of 1976. At that time, Larry Lorber, then director of OFCCP, had insisted they would merely "clarify and simplify," not alter the regulations. Then, on Aug. 26 (appropriately enough, Women's Equality Day), someone from OFCCP leaked an internal copy of the plan to Women Employed. As expected, the new plan drastically undercut affirmative action. WE contacted women's and civil rights organizations, who made protest telephone calls. The first delay followed, as OFCCP delayed publishing the plan in the Federal Register until mid-September. A 60-day comment period followed.

Lorber then attempted to divide civil rights and women's groups, announcing to the press that civil rights groups, including NAACP, supported the revisions and trying to paint opposing women's groups as crazy extremists. It worked for a time, but then a meeting was arranged in Washington between women's groups, civil rights groups and several labor unions. They compared the various stories they had been told about each other and agreed to cooperate to stop the rewrite. A network was formed that circulated a letter criticizing the regulations that was eventually signed by almost every major civil rights and women's group.

Prior to the meeting, the working women's groups had developed a four-point program of opposition to the changes and a 24-point positive program detailing changes that would make affirmative action more of a reality. These programs were extremely useful and served as a concrete basis for opposition to the proposed changes. The technicality of the regulations made the full dimensions of the problem hard to grasp. The press, for instance, was easily confused and tended to steer clear of the whole issue due to its complexity.

►Knowing the enemy.

Women Employed had also researched Lorber, finding that he was a corporate lawyer whose former job had been to defend the interests of the same corporations who stood to benefit from the new affirmative action plan, and that if Carter were elected, Lorber would probably return to the same type of post.

In addition, a WE member posing as a graduate student discovered the Equal Opportunity Advisory Council, a business-created group that advised OFCCP about the new regulations. Its director told her EOAC—representing most major corporations—had helped to write sections of the new plan and that they were very pleased with the results.

WE, working with Sen. William Proxmire (D-Wisc.) was able to get the information into the hands of columnist Jack Anderson's staff. The Anderson staff called Lorber and the EOAC for comment and, according to Creamer, "they flipped out. The material never appeared in the column, but it had the same effect."

Meanwhile, 9 to 5, WE and their counterparts in four other cities demonstrated at regional department of labor offices, demanding public hearings. Their Washington-based allies were leery about calling for hearings; they feared that there would not be enough testimony against the plan and that the hearings would backfire. The working women's groups, on the other hand, believed the hearings crucial to mobilizing popular support and to the process of delaying the regulations until after inauguration day. A compromise was reached where the national groups agreed not to oppose demands for public hearings pushed by local organizations.

Pressure was also put on the Carter and Ford campaign staffs for a statement—Carter eventually called for strengthening affirmative action and more public input. Sympathetic congresspeople were asked to contact Labor Secretary Usery and some 50 eventually did. All groups involved kept a steady stream of postcards, petitions and endorsements of the four-point program arriving at OFCCP. Finally, on Oct. 26 the OFCCP announced public hearings would be held.

"We wanted the hearings to stretch out as long as possible, so the OFCCP would have to deal with hundreds of pages of testimony," says Creamer. The local groups began to line up people and organizations to testify at the hearings.

►Carter and Congress.

Three events then happened that were to affect the fight. First, Carter won the election, making it very likely that the new regulations would be abandoned if their implementation could be put off till after the inauguration. Second, Congressional hearings were held on the matter. There, the Chamber of Commerce broke with the line the corporations had been using, that the new regulations would merely "clarify and simplify."

"They came out in the open purely and simply against all of us," says Creamer. "Before, they claimed they were for equal opportunity, that they just wanted to cut red tape. Now suddenly it was, 'we don't want these civil rights groups filing complaints, winning back pay or all these investigations.' That gave us a handle. We could point to their statements as the real reasons for the rewriting, as we'd been saying all along."

►The Dunlop issue.

The third event was Carter's public consideration of John Dunlop as his Secretary of Labor. This complicated the affirmative action issue. Dunlop was not considered to be favorable to affirmative action. During his earlier tenure as Labor secretary under Ford, he did not have good working relationships with women and minority groups. He had also expressed public opposition to contract compliance programs as a way of enforcing affirmative action.

His consideration meant that a second front in the affirmative action struggle had opened up. If Dunlop were to be appointed the various groups working on affirmative action feared that it would mean four more years of policies like the regulations the Ford administration was proposing.

Opposition to Dunlop was immediately mounted. Because of this opposition, as well as some opposition from liberal unions, Dunlop was withdrawn from consideration and Ray Marshall, considered more responsive to minority and women's issues, was nominated.

Creamer speculates that Carter wasn't wholeheartedly behind Dunlop, but was responding to AFL-CIO pressure in his favor. "If you compare what happened with Dunlop and with Griffin Bell," she says, "you see that Carter could have gotten people like Andrew Young to come out for Dunlop. That didn't happen. I think Carter didn't really want him." Women and minority group opposition, she believes, was merely a convenient way of ruling out Dunlop without appearing to be slighting the AFL-CIO leadership.

►The final phase.

With Dunlop out of the picture, the groups entered the final phase of their campaign to stop the Ford-inspired regulations from becoming public law. Six weeks remained until the inauguration.

Photo by Women Employed

Member of Women Employed holds lists of signatures gathered on Chicago streets to defend affirmative action.

The hard-won public hearings were held in mid-December in four cities. They were packed. OFCCP scheduled them for one day—they dragged on for four. By the last day, even the OFCCP hearing officers at the Chicago hearing were claiming they didn't want the new regulations to go through.

The groups followed the hearings with a telegram blitz to Labor secretary Usery. By law, the OFCCP had to go through all the hearing testimony before publishing the new regulations. As the deadline approached, it was learned that much of the hearing testimony hadn't even been taken out of the boxes yet. Threats of legal action if the regulations were issued put still more pressure on OFCCP to delay issuing the new regulations.

Jan. 18 was the last day the regulations could appear in the *Congressional Record*. With the appearance of only four minor changes, which actually strengthened affirmative action, victory had been won; the delaying tactic had proven effective.

►Carter provides a new terrain.

Activists in that campaign are hopeful that the Carter administration will provide a different terrain for affirmative action struggles.

"We've changed the nature of the fight. We're now at ground zero and we can try to expand affirmative action instead of fighting to keep from losing what we have," sayd Creamer. The groups expect to see proposals in the next year for both legislative and regulatory reform, but caution that they won't happen without political pressure to counter the corporate lobby.

Waging such a fight is expensive. WE, 9 to 5 and other groups had staff working on it full-time; other women's and civil rights groups spent their time and money. WE alone spent $20,000 fighting the new regulations.

"The strategy of winding up the bureaucracy in its own red tape worked," comments Creamer. She feels the most important lesson for the campaign is that grass-roots organizations and Washington-based lobbying groups can work together and stage a multi-level fight.

"We learned that a coalition of women's and civil rights groups can be incredibly powerful," says Creamer. "If we work together, we can win, even against incredible odds."

Photo by U.S. Airforce

Airforce enlistees on parade.

THE MILITARY

Surprising enlistee support for an airforce union

By Ed Sowders

A surprising new element has been added to the growing national debate over unionizing the U.S. armed forces (*ITT,* Jan. 12). A recently-released survey of the attitudes of Air Force personnel towards military unions, conducted by officers at the Air Force Institute of Technology, indicates that 35 percent of all enlisted airmen surveyed would join a military union if given the opportunity. Another one-third was undecided. If even half of this third could be won to the union cause, a majority would be found.

The report's startling disclosure, however, was the apparent pro-union sentiment among senior noncommissioned officers, who are often seen as the most conservative military personnel. Twenty-five percent said they would join a military union, with an additional 36 percent undecided—again enough to establish a possible majority in favor of unionization.

Opposition to union membership was highest among senior officers, as would be expected. Still, 16 percent of the officers, representing mostly junior officers, said they favored union membership.

The study represents the first real indication of the opinions of active-duty personnel on the military unions, which have recently been proposed by the American Federation of Government Employees. The study has been kept under wraps since June 1976 and was only made public last month after the *Washington Post* received a copy by the "threat" of an official request under the provisions of the Freedom of Information Act.

There has been little response so far from congressional and military opponents of unionism. The Air Force has called the study a work of the authors alone, implying it isn't "officially" accepted. The authors, all officers experienced in "official" surveys, say their findings are "reasonably representative of the [entire] Air Force population."

AFGE leaders, on the other hand, said the survey is a clear indication of the widespread support for their proposed organizing drive. Civilian activists interested in the military union drive agree and are urging AFGE to quickly begin organizing GIs. They point out that pro-union sentiment may run even higher in other branches of the military where material conditions are worse, disciplinary rates higher and morale much lower.

Opponents of military unionism have said that a union would cause the demise of "good order and discipline" and morale in the armed forces and would reduce the "professionalism" and effectiveness of troops. A majority of enlisted personnel surveyed, on the other hand, said that union membership would either increase or have no effect upon their individual professionalism. Fifty-nine percent felt the effectiveness of the Air Force would either be increased or that a union would have no effect upon it. One-half were either undecided (14 percent) or disagreed (36 percent) with the statement that a military union would negatively affect discipline.

Officers, however, had more agreement with union opponents on these questions. They also perceive a threat to their own positions in that a military union "would take away the rights of managers." A clear majority saw unions as having a negative effect upon relations between supervisors and subordinates, while the bulk of enlisted people (including supervisory NCOs) saw such relations improving (30 percent) or saw unions have no effect at all (33 percent) upon supervisor/subordinate relations.

Over half of the enlisted people saw the need for "third party representation" in the negotiation of disputes between the Air Force and individual service members, and two-thirds either agreed or were undecided with the survey statement that "union representation would insure that military members are treated with dignity as individuals." Officers, however, disagreed with both statements.

Officers and enlisted personnel agreed on other points. All saw their benefits—seen as part of an "unwritten contract" with the government—being eroded and agreed upon the need for a lobbying effort in Congress on behalf of military personnel. Ironically, even the officers admitted that a union could be effective in their behalf, though only a minority expressed the willingness to join.

Both groups felt that union membership should be open to both officers and enlisted personnel and both would rule out strikes as a legitimate means of solving grievances.

A copy of this survey can be obtained by sending a check or money order for $3.50 (for duplicating and postage) to: Ms. E. Torres, 261 East 10th St., New York, NY 10009.

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THE STATES

Relying for most of its resources on the deposit of all state money, the Bank of North Dakota has returned $91 million in profit to the state while gaining a degree of public control unique for a U.S. bank.

North Dakota's answer—a state-owned bank

By James E. Rowen
Pacific News Service

With city after city facing financial collapse and social decay, several highly urbanized states are looking to rural North Dakota for a possible answer to their fiscal crises.

The object of their affections is the state Bank of North Dakota—the only existing public bank in the U.S.—which since its founding in 1919 has lent millions of dollars to North Dakota farmers and students.

Relying for most of its resources on the deposit of all state money, the Bank of North Dakota has returned $91 million in profit to the state while gaining a degree of public control unique for a bank in the U.S. Such democratic control—it is run by a three-member board of elected state officials—has inspired activists around the country looking for financial and political means to implement new fiscal policies.

They dream of public banks allocating money, credit and technical assistance to cash-starved cities, co-ops, minority enterprises, small businesses, worker-controlled companies and other projects private banks usually have not supported.

Proposals for such state-owned banks are now under official review in eight states and the District of Columbia.

In New York, New Jersey, Massachusetts, California, Florida, Colorado, Oregon and Washington, public bank proponents believe the system that has helped farmers in North Dakota can give the public more power to direct urban development in their states.

►Put public money in a public bank.

Nearly all cities and states now routinely deposit their funds in private banks. Public capital proponents propose to invest those funds in public banks, which, like the Bank of North Dakota, would be prohibited from making traditional commercial or personal loans.

New York State Assembly Speaker Stanley Steingut, who has proposed a New York State public bank, says the "state bank concept originated in a discussion of how to link state deposits to public needs—how to make public money work for the public good."

A bill to create the State Public Bank of Oregon, introduced by Oregon legislator George Starr, declares that the bank "be a government agency established for the public benefit." Similar "public-money-for-public-needs" definitions are repeated in all the pending public bank proposals.

A survey by the *Washington Post* in the District of Columbia points up one reason why. The survey found that more than 50 percent of total mortgages approved by banks in 1975 went to the predominantly white and wealthy northwest neighborhoods that make up a small fraction of the city.

Steingut's New York state proposal, spurred by the recession and the calamitous financial condition of New York City, passed the Assembly in 1975 but was killed in the Senate after strong opposition from the state's banking lobby.

The private bankers clearly feared the transfer of the state's $6 billion in deposits to the new public bank, creating immediate competition from what instantly would have become one of the largest banks in the country.

But Steingut plans to reintroduce his proposal, which was endorsed by Ralph Nader, economist Eliot Janeway and Bank of North Dakota president H.L. Thorndal. And because of New York's precarious financial position, it is considered the state most likely to approve the nation's second public state bank.

"A bank owned, operated by and for the people of a state will not be a panacea for all of a state's economic and social problems," warns North Dakota's Thorndal. "But it can be a great help in alleviating many of these problems and can give leadership and financial input in isolated and special areas."

►Sounding the business alarm.

Barron's, Dow Jones & Co.'s respected financial weekly, sounded an alarm against the public capital movement in a two-part series last August. The articles identified the Washington-based Institute for Policy Studies as the force behind the movement, and nervously pointed to many former antiwar activists who are "going respectable" and targeting the country's banking system for substantial overhaul.

"This change in strategy," wrote *Barron's* David Kelley, "tends to obscure an underlying continuity in purpose, which is still to bring about a socialist society, with community ownership and control of all resources.

"It also obscures the kind of power which the left can now deploy inside the system to achieve its goal."

But ironically, the public banks concept has been given one of its biggest boosts—and a degree of legitimacy unthinkable five years ago—by the nation's financially strapped big-city mayors.

At a recent emergency meeting in Chicago of the U.S. Conference of Mayors, the mayors urged the Carter administration to create a "National Urban Development Bank" to lend federal funds to local governments and private businesses.

According to a confidential report prepared for the mayors' meeting, the fiscally imperiled eastern and northern urban states are "exporting" billions of dollars of much-needed capital to states in the South, Southwest and West. Private bankers with non-public priorities, the report said, saw greater guaranteed profits in the Sunbelt.

Sen. Thomas McIntyre (D-N.H.) is sponsoring federal legislation to create a "National Consumer Cooperative Bank" that would lend money to existing or proposed cooperatives to provide community-controlled services in the areas of housing, health, food, preschool education and other businesses.

Several states have also taken half-way steps toward public banking. In Massachusetts, voters approved $10 million in seed money last fall for a public agency to provide equity and venture capital to create new jobs in local businesses. That agency, the Massachusetts Community Development Finance Corp., is setting its priorities in areas of high joblessness and will operate much as a state development bank.

Other specialized public financial programs are in operation in Kansas, Pennsylvania and Connecticut.

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