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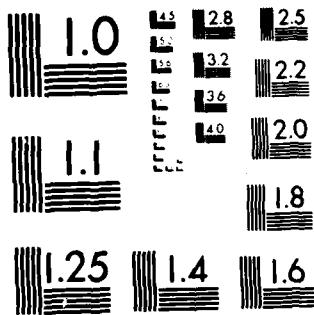
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REPORT DOCUMENTATION PAGE		READ INSTRUCTIONS BEFORE COMPLETING FORM	
1. REPORT NUMBER	2. GOVT ACCESSION NO. AD-A129260	3. RECIPIENT'S CATALOG NUMBER	
4. TITLE (and Subtitle) Personnel-Unionization		5. TYPE OF REPORT & PERIOD COVERED Student Essay	
7. AUTHOR(s) LTC Joseph S. Napier		6. PERFORMING ORG. REPORT NUMBER	
9. PERFORMING ORGANIZATION NAME AND ADDRESS US Army War College Carlisle Barracks, PA 17013		8. CONTRACT OR GRANT NUMBER(s)	
11. CONTROLLING OFFICE NAME AND ADDRESS Same		10. PROGRAM ELEMENT, PROJECT, TASK AREA & WORK UNIT NUMBERS	
14. MONITORING AGENCY NAME & ADDRESS (if different from Controlling Office)		12. REPORT DATE 12 April 1983	
		13. NUMBER OF PAGES 30	
		15. SECURITY CLASS. (of this report) Unclassified	
		15a. DECLASSIFICATION/DOWNGRADING SCHEDULE	
16. DISTRIBUTION STATEMENT (of this Report) Approved for public release distribution unlimited.			
17. DISTRIBUTION STATEMENT (of the abstract entered in Block 20, if different from Report)			
18. SUPPLEMENTARY NOTES			
19. KEY WORDS (Continue on reverse side if necessary and identify by block number)			
20. ABSTRACT (Continue on reverse side if necessary and identify by block number) A key issue within the military community during the mid 1970's was the notion of military unionization. This issue could again surface in the mid 1980's. This essay addresses the issue of military unionization within the US armed forces. The paper examines the history of military unionization, foreign armed forces unionization, unionization in America, (both public and private sector), and provides the rationale for why the military should transition to unionization. The armed forces should recognize that the potential of			

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USAWC MILITARY STUDIES PROGRAM

PERSONNEL-UNIONIZATION

INDIVIDUAL ESSAY

by

Lieutenant Colonel Joseph S. Napier
Infantry

US Army War College
Carlisle Barracks, Pennsylvania 17013
12 April 1983

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distribution unlimited.

ABSTRACT

AUTHOR: Joseph S. Napier, LTC, INF

TITLE: Personnel-Unionization

FORMAT: Individual Essay

DATE: 12 April 1983 PAGES: 30 CLASSIFICATION: Unclassified

A key issue within the military community during the mid 1970's was the notion of military unionization. This issue could again surface in the mid 1980's. This essay addresses the issue of military unionization within the US armed forces. The paper examines the history of military unionization, foreign armed forces unionization, unionization in America, (both public and private sector,) and provides the rationale for why the military should transition to unionization. The armed forces should recognize that the potential of unionization in the 1980's could become a reality and the military should take the initiative.



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CHAPTER I

INTRODUCTION

BACKGROUND

One of the burning issues, certainly within the military community during the mid 1970's, was whether the military forces of the United States should unionize. Heated debates as well as numerous articles and books addressed this issue and centered around the termination of the Selective Service System and the beginning of the All-Volunteer Force 1973; and the eliminating or depreciating of many benefits, commissaries and post exchange privileges, retirement pay jeopardy, medical care for dependents and educational opportunities being reduced.¹ All in all during this turbulent time, the Army Times added fuel to the fire when it published an article which stated, "Fifty service benefits and programs in the past two years have either been eliminated or eroded." Either real or perceived, a vast majority of service personnel held the belief that contracts were being broken and they were losing trust in the Executive and Legislative Branches of the Government.² Thus times were ripe for some kind of action, and in September 1976, the American Federation of Government Employees (AFGE) adopted a resolution to accept military applications for membership.³ This resolution was the single action that served to focus serious attention on the issue of US military unionization, and was instrumental in thrusting it to a position of prominence. In reaction, Congress acted on 21 February 1978 to amend Chapter 49 of Title 10, United States Code, to prohibit union organization and membership in the Armed Forces by passing Public Law 95-610:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Congress hereby finds that: (1) members of the Armed Forces must be prepared to fight, and if necessary, to die, to ensure the welfare, security, and liberty of the United States and its people; (2) discipline and prompt and unquestioning obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition, and from the earliest articles of NAR, military laws and regulations have prohibited conduct which would undermine the military chain of command; (3) the process of conventional collective bargaining and labor negotiations cannot and should not be applied to the Armed Forces and strikes, work slowdowns and similar job actions have no place in the Armed Forces; (4) unionization of the Armed Forces is incompatible with the military chain of command, undermines the role, authority and position of the commander, and constitutes a clear thrust to the morale and readiness of the Armed Forces; and (5) there is clear and present danger that the Armed Forces will become unionized.⁴

In essence this bill which resulted in PL 95-610, made it unlawful for a member of the armed forces to form or maintain membership in a "military" labor organization.

Since the enactment of PL 95-610, virtually all debate and discussion concerning military unionization has ceased and unionization has become a dead issue. Having said that, the thrust of this paper then is to revive the issue and to take a new look at this extremely complex question in terms of past experiences and to some degree look at ways the military has adopted participative management techniques which on the surface in many ways parallels unionization.

Hopefully, this paper will serve as a catalyst for provoking additional interest and thought in building a case for military unionization.

CHAPTER II

EUROPEAN ARMED FORCES UNIONIZATION

GENERAL

In establishing a case for US military unionization, one can gain considerable insight by looking at military organizations which have unionized and seeing what effects it has had on their ability to accomplish their military mission. This chapter will examine four European military establishments, the Federal Republic of Germany, The Netherlands, Denmark and Sweden, which have permitted members to join and be represented by unions and associations. It should be noted that a distinction is made between unions and associations, since associations generally consult and lobby; while unions negotiate with government on matters involving pay, benefits, working conditions and military standards.⁵ Associations are normally comprised of military members only and are usually divided into specific categories; i.e., officers, NCOs, etc., while unions represent military members as well as public and private sector employees and are frequently national in scope.⁶ Some key elements which have a profound impact on military unionization are that neither military unions (except Sweden) or associations have the right to strike and are prohibited from interfering in matters of discipline, training and operational matters. Moreover, restrictive union policies are waived in time of war or national emergency. Table 1 contains a union/association listing and provides selected general data about four European countries having some form of military representational practice.

Table 1
Selected European Military Unions and Associations^a

Country	Year Established	Percent Membership	Union (Name or Number)	Government Relationship
Federal Republic of Germany (495,000)	1954	80% (officer & enlisted)	DBV OTV	Vocational Lobby
Netherlands (112,200)	1897	75-80% (officer & enlisted)	35	Consultation
Denmark (34,700)	1922	98% officer 92% enlisted	52	Negotiation
Sweden (65,400)	1965	98-100% (officer & enlisted)	officers warrant officers NCO	Negotiation

^aData compiled from: Colben K. Sime, The Issue of Military Unionism: Genesis, Current Status and Resolution, (Washington: National Defense University, 1977), p. 2.

Federal Republic of Germany (FRG).

The German Armed Forces Association represents 80 percent of the career military and is dedicated to representing its members by lobbying through the Minister of Defense and Parliament for benefits, pay and working conditions. The Association is guided by the following principles.⁸

- Ensure the combat readiness of the Armed Forces.
- Support the maintenance of discipline in the Armed Forces.
- Ensure recognition by the Armed Forces leadership of its responsibility to uniformed members.
- Maintain religious and political neutrality.
- Avoid interference in purely military matters.
- Deny itself the use of strikes in attempting to achieve its objectives.

It is generally felt that the consultation process works well in accomplishing the aims of the Association. All benefits, regulations and conditions are dealt with by the Association through the Ministry of Defense; however, discipline law and order and military operations are excluded from the consultation process.⁹

The Public Services and Transport Union started enrolling members of the Armed Forces in August 1966, and has a relatively small membership comprised of technically skilled military members. The union is primarily involved in the consultation process along with the Federal Armed Forces Association. Additionally, a union statute forbids calling on the military membership to strike even though nonmilitary members can strike.

In the public sector, personnel councils represent employees on matters not covered in the negotiated contracts, and military personnel councils also exist at the Ministry of Defense level, regional level and the local unit level. The military elect representatives from within their ranks to represent them in dealings with management. Military personnel don't have the same rights as public employees and cannot make joint decisions with management. In combat units ombudsmen have been established for handling complaints and grievances. A May 1975 regulation requires quarterly battalion level meetings and also authorizes the ombudsman to hold meetings during duty hours with those represented. The ombudsman must be informed when disciplinary action is taken against any individual he represents; however, his function is essentially one of providing a character reference. During wartime or national emergency, the ombudsman arrangement is suspended.¹⁰

Netherlands.

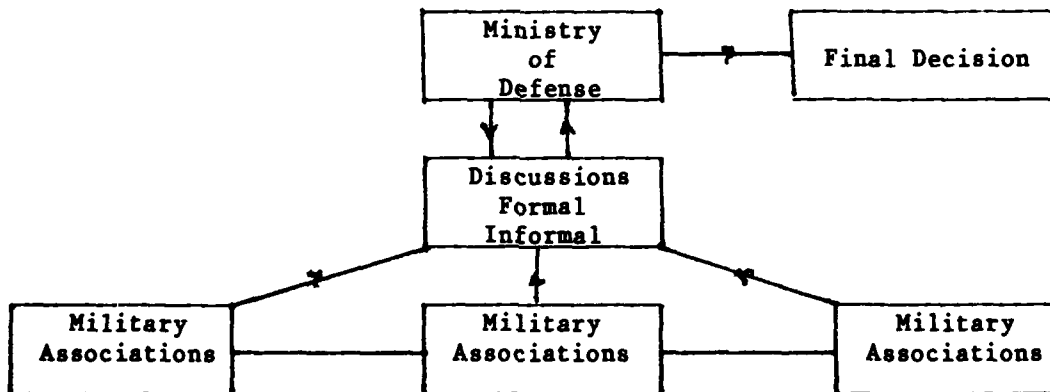
In the Netherlands all military personnel are permitted to join associations. The first military association was a noncommissioned officers association founded in 1892 to promote material interests of its military members. There are now approximately thirty-five associations involving military personnel. These associations, through joint consultation with the government deal primarily with issues concerning pay, personnel policies, work conditions, individual freedom and discipline.¹¹

In 1966, the Association of Drafters (VVDM) was formed and their action program has been extremely successful in achieving gains for servicemen. During its relatively brief sixteen year history, the Association has compiled an impressive record.¹²

- Pay has been increased sharply and is now the highest in Europe.
- Soldiers have full democratic liberties.
- Inspections and unnecessary formations have been eliminated.
- Hair length and saluting have become optional.
- The military penal code has been reformed, eliminating the most severe forms of punishment.

As a result of the VVDM and its eleven other companion associations, the Dutch Armed Forces have become one of the highest paid and democratic forces in the world.

The consultation process between the Ministry of Defense and the twelve associations is comprised of formal and informal discussions. Informal discussions are held monthly with the Ministry of Defense and two representatives from each of the twelve associations. Twice each month formal consultative discussions are held with the under Secretary of State for personnel affairs. The following chart depicts the institutionalized consultation process.¹³



The Netherlands has probably attracted the most publicity and attention in the military union debate issue, which has centered around the notion that associations have interfered with military operations. The fact of the matter is that the associations are not permitted to have any

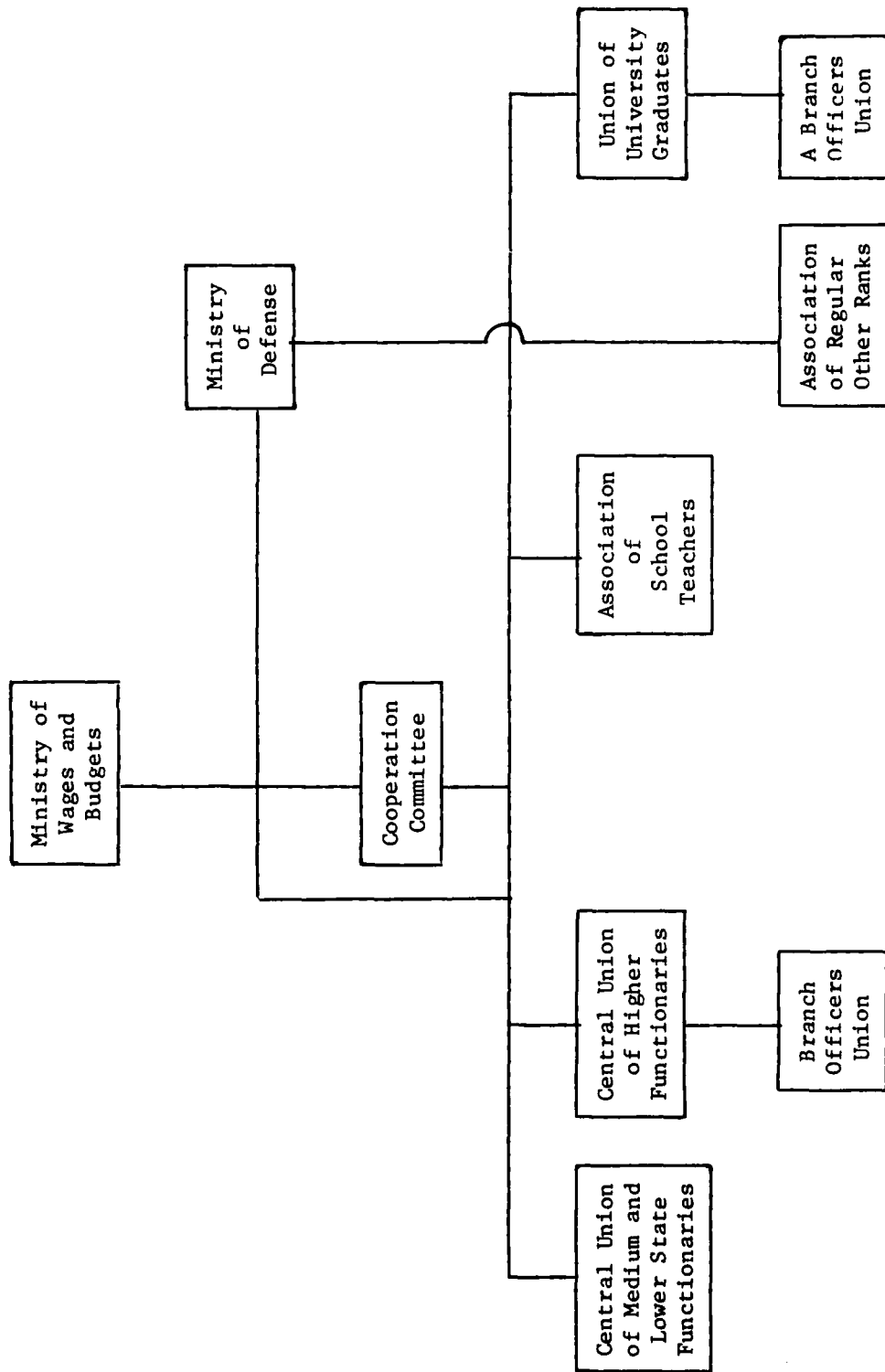
involvement in or have any impact on discipline in military operations. As an example, thirty soldiers refused to participate in a winter exercise because they thought it was too cold. The exercise was conducted and the soldiers were subsequently court-martialed and sentenced to prison.¹⁴

Denmark.

Approximately fifty-two military associations exist today in Denmark; and nationally there are three central military unions: A Branch officers' union, B Branch officers' union and the Association of Regular Other Ranks. The A and B Branch officers' unions were established in 1919 and the Association of Regular Other Ranks was organized in 1939, but it was not granted union status by the Ministry of Defense until 1953. Public sector employees and military personnel are covered by agreements negotiated by the Ministry of Wages and Budgets and four main unions: the Central Union of Medium and Lower State Functionaries; Central Union of Higher State Functionaries; the Association of School Teachers; and the Union of University Graduates. In most cases, the Ministry of Defense deals only in military personnel matters, and a Cooperation Committee handles issues common to the unions affiliated with the four central unions.

The chart on the following page shows the relationship of the military unions with the four main public sector unions and the ministries of finance and defense.¹⁵ As can be seen, the Association of Regular Other Ranks is not affiliated with one of the four main unions; it therefore negotiates directly with the Ministry of Defense.

Danish conscripts have no union and are governed by the 1967 Act of Rules of Cooperation in the Armed Forces. This Act provides guidelines for communications between the conscripts and military managers at all levels. Accordingly, conscripts are entitled to elect representatives to express



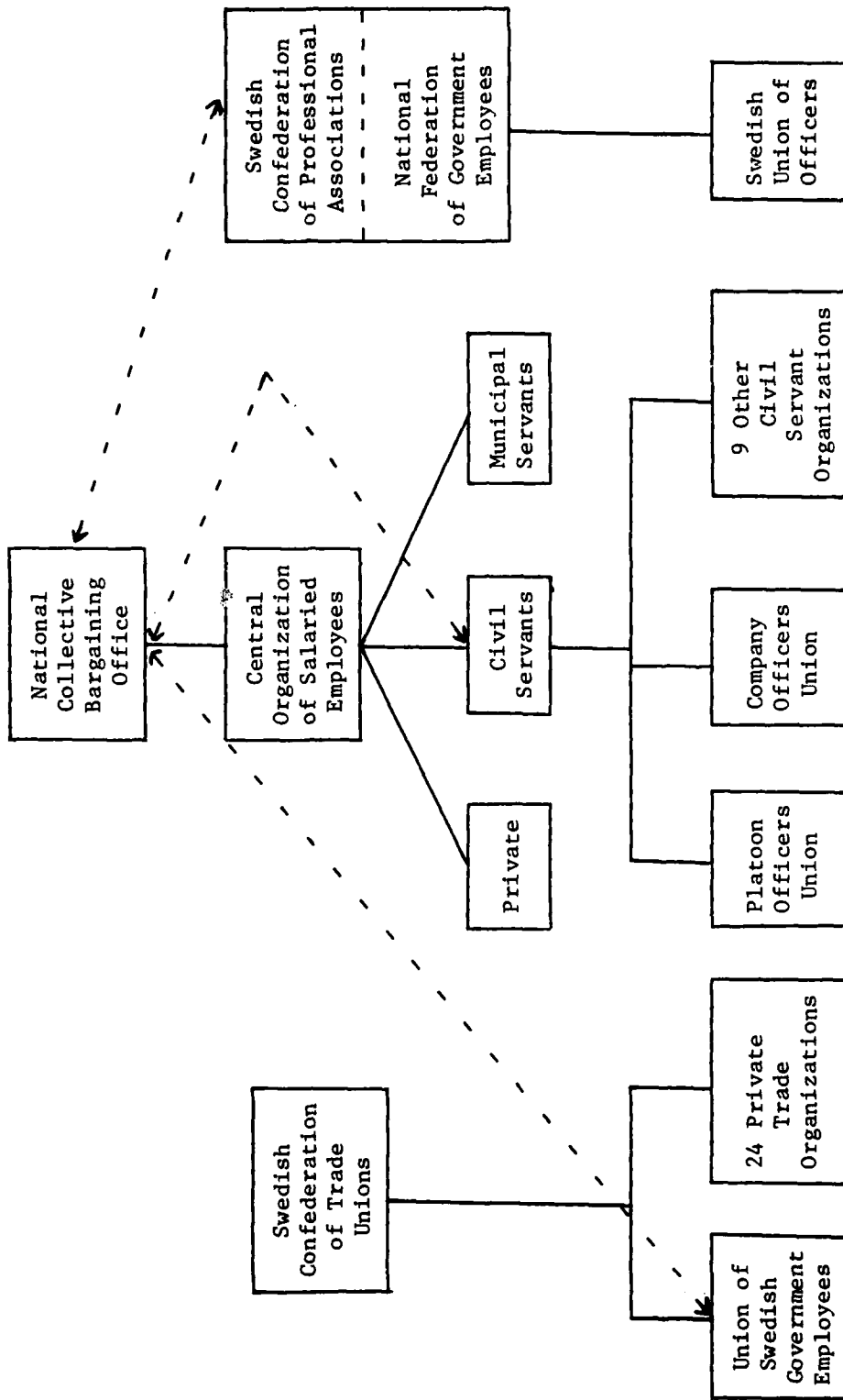
their wishes and complaints to the commanding officers and if the matter is not resolved, it is passed up the chain of command until resolved or a final decision is made.¹⁶

The military unions in Denmark function as rivals the same way as unions in the private sector. However, military personnel as well as other public employees do not have the right to strike plus there are provisions for suspending the military representative arrangements during wartime or national emergency.¹⁷

Sweden.

Swedish military unions are a result of the state officials Act of 1965, which extended the private sectors' collective bargaining rights over salaries and working conditions to nearly all national civil servants, including Armed Forces members. Because of this, the rights of the Swedish military unions are quite extensive. Three military unions: the Company Officers' Union, the Platoon Officers' Union, and the Swedish Union of Officers represent most of the regular military personnel, and these unions in turn belong to larger central organizations which negotiate certain issues for them. These national unions engage in contract negotiations with the government's National Collective Bargaining Office for Public Employees and Military Personnel.¹⁸ This membership is shown in the chart on the following page.¹⁹

Although there are strike provisions, the military union cannot strike unless approved by their affiliated national civilian union. The strike does not affect national security as adjudged by the government.²⁰



SUMMARY

After looking at the performance of military unions and associations in the Federal Republic of Germany, The Netherlands, Denmark, and Sweden, one can draw certain conclusions from their military unionization experience. In general, all of the European military unions assert that organizing has had no negative impact on their capability to accomplish their military mission or on national security. All have achieved improvements in pay, working conditions, and benefits. Most organizations feel that unionism has improved internal conditions along with creating a more democratic and enlightened form of service. It is axiomatic that soldiers who are treated fair and are able to participate in decisions affecting their lives will be more highly motivated than those who are oppressed.²¹

CHAPTER III

UNIONIZATION IN AMERICA

"Obviously, you had a reason for saying, that the military should not unionize!" "Do you mind if I ask what it is?" The response to this question in military circles is filled with emotion, apprehension, assumptions, and to a large degree, is built on a genuine ignorance about unions and unionization in this country. Both in the private sector and to a larger degree in the public sector. So assuming for the moment that the answer to the lead-in question is an honest, "I don't really know anything about unions," then this chapter will give a brief historical account of unionization within the private and public sectors. This is essential because in chronological history, private sector collective bargaining was the precursor to public sector collective bargaining which carried to its next logical step, overtime, which could lead to military unionization and collective bargaining.²²

One must keep in mind during any discussion of private and public sector collective bargaining that the bottom line difference between the two sectors is that profits are the motive in the private sector, while service is the motive in the public sector. However, given different motives, the goals of labor remain the same: higher wages, shorter work weeks, larger vacations, safety and increased fringe benefits, etc.²³

PRIVATE SECTOR

If we jump to the formal beginning of our labor movement which started on 1886, (recognizing that unions in this country started in 1794) with the formation of the American Federation of Labor (AFL) under the leadership of Samuel Gompers, we see the beginning of trade or craft unions. The Federation was guided by a basic philosophy that the aims of the union are to achieve higher wages and better working conditions for its members, each national union was to be autonomous over its craft and that voluntarism was required.²⁴

Until the 1930's, most collective bargaining laws resulted from court decisions, since no national labor guidelines existed. During this period employers tried to disorganize unions and used court-issued injunctions against strikes which in turn tended to discredit the capability of the union.

In an effort, in part, to counter this pro-management approach, two legislative acts were passed in the 1930's. The Norris-LaGuardia Act passed in 1932 and the Wagner Act passed in 1935. The former Act restricted the use of injunctions in labor disputes and the latter Act also referred to as the National Labor Relations Act established the first national labor guidelines which protected the right of workers to organize and to elect their representatives for the purpose of collective bargaining.²⁵

Following this period of pro-labor statutory influence, the legislative pendulum began to swing back toward management as a result of the 1946 strikes which set a record that stands to this day for the highest number of man-days lost to strikes. In 1947 the Taft-Hartley Act was passed which outlawed closed shops, enumerating union unfair labor practices, and restricting management from interfering with union organization efforts.²⁶

In the 1957 the Landrum-Griffin Act was passed which established a Bill of Rights for members of unions and required unions to disclose their internal operations. Although membership in private sector unions has fluctuated over the years, unions continue to remain a powerful force in this country. It is interesting to note that private sector unions were established under the following principles:

1. Unions recognized as a basic part of life.
2. Organizational rights are protected.
3. Right to strike is protected.
4. Collective bargaining is the cornerstone.
5. Unions have the responsibility to protect members' rights.²⁷

Public Sector

Not unlike the private sector, the public sector employees had disagreements over wages, working hours, working conditions and benefits. As early as 1807, when the Secretary of the Navy fired blacksmiths at the Portsmouth Navy Yard who had complained of low wages.²⁸

Early on the philosophical difference between the public and private sector employer-employee relationship was the right to collectively bargain--strike--in the private sector and the notion of sovereignty in the public sector. Sovereignty of the government then precluded governmental employees from collective bargaining or to strike. The Lloyd-LaFollette Act of 1912 guaranteed the rights of federal employees to petition Congress which superseded executive orders of Presidents Taft and Roosevelt between 1902 and 1909 to the contrary. With this right to organize but not to collectively bargain or strike, federal employees could only exercise their right to petition Congress. This restriction continued, and in fact the Taft-Hartley Act strengthened this notion and explicitly prohibited federal

employees from participating in strikes. Moreover Public Law 330 passed in 1952, further strengthened the Taft-Hartley Act and made strikes in the public sector a felony.²⁹

The general wage increases in the public sector lagged behind the private sector's and were sensitive to election years or a periodic civil service merit increase. Thus in the public sector, the employer unilaterally determined any benefits, be they wages or otherwise. This situation continued until the 1960's when President Kennedy in 1962 issued executive order 10988 which established a new dimension for federal employees and established the first framework, although mild compared to the private sector did mandate:³⁰

1. Provided for three categories of union recognition: informal, formal and exclusive which was based on representative strength.

2. The notion of bargaining and negotiated agreements were introduced.

3. The right to form a union or not was reaffirmed.

4. Negotiating impasses was to be left to the parties.

5. Recognized a union only if the union had a no-strike clause in its constitution.

6. Established promotions, demotions, recruitment and training, disciplinary action, and reduction in force as issues for collective bargaining. With this executive order an expansion of public sector collective bargaining occurred. By 1967, 630,000 nonpostal employees were in bargaining units exclusively represented by unions and accounted for 29 percent of all nonpostal employees of the Executive Branch of the Federal Government.³¹

In 1969 and 1971, President Nixon issued executive orders 11491 and 11616, respectively. Executive order 11491 provided for exclusive recognition based on majority rule, delineated unfair labor practices, defined standards of union conduct and designated the Assistant Secretary of Labor for Labor Management Relations to resolve changes resulting from the order. Moreover, this order established the Federal Labor Relations Council and the Federal Services Empasses Panel. Bargaining scope continued to be limited and compulsory union membership was banned. Executive order 11616 strengthened the effect of exclusive recognition, broadened the scope of negotiations and required a negotiated grievance as the exclusive remedy for grievances concerning the interpretation and application of the agreement.³²

Subsequent, executive order amendments by President Ford in 1975, 11838, broadened the scope of what could be bargained, increased the Assistant Secretary of Labor's scope of investigating unfair labor practices and retained the full power of the Federal Labor Relations Council as established by the Nixon order.³³

Finally, in January 1979, the Civil Service Reform Act was established under Title 7, Labor Management Relations, which basically put into law the President's executive order, thereby giving more permanency to the public sector labor negotiating process. Additionally, Title 7 provided at the federal level a system for public employees very similar to what the private sector used.³⁴

SUMMARY

As a result of public sector collective bargaining federal employees have gained increased pay as well as additional benefits. This chapter is not intended to be a detailed historical account of the private and public sector labor movement in this country, but rather to highlight significant labor actions which have occurred. More germane to this paper is to point out and emphasize that the labor movement with regard to unionization has developed overtime and that based upon historical evidence this trend will continue. One could argue that unionization will continue to expand in the public sector and in the not too distant future include the military. In fact, as the economy begins to recover and unemployment decreases unionization, as history has shown in the past, will become more important. This coupled with the demands of the military in competing in a market share of relatively high employment and the nature of new recruits, which will be addressed in subsequent chapters, working in a high technological environment will demand a share of democracy eventually giving way to military unionization.

CHAPTER IV

MILITARY TRANSITION TO UNIONIZATION

GENERAL

Unionization of the military should not be viewed with apprehension or alarm by the military establishment. The fact exists that over the course of time, perhaps spurred on by the unionization question, the military has adopted many of the techniques used by unions to represent their members. Participative management within the military has in fact become the rule in many commands.³⁵

UNIT CONTRACTS

During the mid 1970's in Europe performance contracts were arbitrated and signed by the Corps Commander with his subordinate commanders. These performance contracts were subsequently negotiated between subordinate commanders down to battalion level. Simply stated, the contracts specified resources to be provided at each level of command and the performance level to be achieved at the end of the contract period. During the negotiation process each subordinate commander was provided the opportunity to voice his honest opinion about what his unit could accomplish with the given resources.

SOLDIERS' COUNCILS

At the battalion level Soldiers' Councils now exist where a soldier is designated from each Company to represent all the members of his unit and

meet once a month with the battalion commander to voice grievances or concerns of his fellow soldiers. The results of these meetings are forwarded to the next higher commander and are posted on the unit bulletin board for the benefit of all concerned.

ASSOCIATIONS

In all services, associations now exist which lobby for military benefits with the Department of Defense, Office of Management and Budget, the White House, and Congress. These organizations such as the associations of the US Army and the Noncommissioned Officers Association to name only two, perform useful, even essential, functions without disrupting the chain of command or undermining in any way existing military authority.³⁶

MISSION ASSIGNMENT AND ADJUDICATION

Perhaps no where in the Army is the negotiation process of mission assignment and participative management more profound than in the US Army Recruiting Council (USAREC).

Within USAREC,

Each level of command manages and supervises the next two subordinate echelons of Council. The intent of this rule is to make leaders, managers and staff at any level more aware of what is happening one level below the next immediate level. It is not the intent of this rule to bypass any echelon of command.³⁷

The negotiation and adjudication process is used to determine the exact number of United States Army Reserve and Active Army accessions and contracts required by each level of command. The negotiation procedure is defined "as the proposal/counter proposal method of reaching an achievable mission," and adjudication, "is the decision process which establishes the final mission to be accomplished."³⁸ It should be noted that within the command structure the quarterly mission is adjudicated face to face with

the commander or individual recruiter one level removed. Thus the immediate commander is bypassed in the adjudication process. This mission assignment procedure is unique within the Army and many "old soldiers" have a difficult time accepting the fact that this mission is adjudicated rather than given in the "old traditional" way of a direct order. Suffice to say without arguing the pros or cons of this procedure, it in many ways can be compared at least at this level, to successful collective bargaining over the mission.

QUALITY OF SOLDIERS COMING INTO THE ARMY

Although this paper addresses unionization of the military, let us focus on the Army specifically and look at the caliber of soldiers being recruited and the challenges/opportunities offered.

It is common knowledge that recruiting for the all volunteer Army today is a resounding success. The recruiting command with the high rate of employment is in a "bull market" and through incentives is attempting to take advantage of this market. In comparison to previous years the caliber of young men and women coming into military service this year is higher than ever before. Of the total requirement for FY 82 of 132,400 a minimum of 100,800 must be high school graduates--additionally, only 25 percent can be in the military accession category of IV as measured by the Armed Service Vocational Aptitude Battery Tests which breaks out in a "bell curve" in the lower 50 percent category.³⁹ One can say with confidence that the Army and other services as well are now attracting smarter and more educated personnel than ever before. Moreover, as an incentive to attract these bright young people, the Army offers a two year enlistment option that gives them \$15,200 to continue their education, similar but much more than the old "GI Bill." The bottom line then is that during the

"bull market" recruiting is going great and the caliber of young people joining is better than ever.

With this in mind, one can argue that as the "bull market" turns into a "bear market" recruiting will correspondingly get tougher and that the bright, more educated soldiers will demand their equal rights. Unionization can be the answer or at least the partial answer to the predictable future consequences.

SUMMARY

With soldiers' councils, military associations, military in house, contracts and mission adjudication procedures as well as current recruiting practices, the point can be made that the transition of the military to unionization would not be as dramatic as some would lead others to believe. In fact, service members are recruited by material benefits, educational opportunities and specific contractual items such as skill training or station of choice. Given this, one could argue that these factors are specifically related to unionization and that the emphasizing of these factors tends to make the all volunteer force even more susceptible, if you will, to unionization in the future.⁴¹

CHAPTER V

CONCLUSION

The military unions of Europe clearly show that unionization has had a positive effect on increasing wages, reducing the work week, providing better service conditions and professional standards.⁴² There is no reason to doubt that in this regard the unionization of US military forces would also provide similar benefits experienced by the European military establishments.

By examining the development of private sector unions and the emergence of public sector collective bargaining, one can see a logical progression over time and the increase pay and benefits that have accrued from unionization. Further, as unions in the public sector continue to grow and expand, this acceptance must have a positive effect on future military unionization.

The US military is extremely sensitive to participative management techniques and providing for improved communication as well within its organizations. One could perhaps argue, that the military recognizes the needs of the rank-and-file are, by adapting in a unilateral way the techniques of collective bargaining, attempting to parry unionization. An essential point to keep in mind is one made by David Cortright:

Unions do not create employee grievances: they simply try to deal with them and ease their causes. In fact, to the extent that unionization resolved these problems, internal conflicts would diminish, and potential readiness would improve. The tensions that threaten military reliability cannot be traced to unionization. They depend on the military mission and on command ability to meet rank-and-file needs. Internal effectiveness hinges on decisions of commanders, not labor leaders.⁴³

Moreover, with the increased quality of recruits coming into the service, and the notion that recruiters give/sell the impression that military life and working conditions are similar to certain occupations, it is not unreasonable for them to demand union representation in the 1980's.⁴⁴

RECOMMENDATIONS

The military establishment should recognize now that the potential of unionization in the 1980's is a reality. That the military forces should take the initiative to unionize and develop a plan for implementation of a professional military union.

In this regard, Congress should be petitioned by the military to revoke as amend PL 95-610, to allow military unionization; and at the same time be prepared to implement unionization.

Finally, one cannot discuss the unionization question without discussing a parallel between this issue and the much debated issue of the draft vs. the all volunteer force issue. The fact of the matter is that military unionization would be beneficial to the military and given the opportunity as with the AVF, it would make for a better military force.

ENDNOTES

1. William J. Taylor and Robert J. Arango, Military Unions: U.S. Trends and Issues (Beverly Hills: Sage Publications, 1972), p. 9.
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3. Sime, p. 31.
4. U.S., Congress, House, Committee on Armed Services, Full Committee Consideration of S. 274 to Amend Chapter 49 of Title 10, U.S. Code to Prohibit Union Organization and Membership in the Armed Forces, 95th Congress, 2nd Session, February 21, 1978 (Washington: GPO, 1978), p. 1.
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