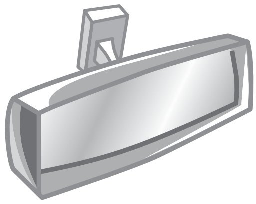

By Steve Fraser and Joshua B. Freeman

IN THE REARVIEW MIRROR

A Brief History of Opposition to Public Sector Unionism

There is nothing new about opposition to public sector unionism. It has been a feature of American life for over a hundred years. But in some ways, the current wave of anti-unionism is a departure. Three different eras of opposition to public sector unionism, including the current one, have been distinguished by distinct core arguments against collective bargaining for public employees.

From the early 1900s through the 1960s, opposition to public sector unionism largely rested on the idea that it undercut the sovereignty of government. Unions of government employees were unusual during this period, though non-union associations of government workers—which engaged in lobbying, advocacy, and fraternal activities—were fairly common. When government workers tried to engage in private sector-type unionism, they ran into fierce opposition. The 1919 Boston police strike—which occurred in the middle of the post-World War I "red scare" and an extraordinary year-long series of militant strikes in virtually every industry—showed how far public employers would go to block public sector militancy and the political gains to be made in doing so. The Boston police commissioner did not object when police officers joined a local, independent association. But when they affiliated their group with the AFL, in effect claiming the same rights and status as private sector workers, he suspended nineteen officers, precipitating a walkout. Governor Calvin Coolidge, in the name of defending "the sovereignty of Massachusetts," fired all the strikers, brought in state troops to patrol the city, and recruited a new police force from demobilized soldiers. He rode his strike-breaking into the 1920 Republican vice-presidential nomination and ultimately to the White House.

Many liberals shared Coolidge's belief that government employees should not be allowed to unionize, or at least not engage in private sector-style unionism. In 1937, President Franklin D. Roosevelt, in a letter to the head of a federal employees group, proclaimed that:

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All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service…The very nature and purposes of Government make it impossible for administrative officials to represent fully or bind the employer…The employer is the whole people, who speak by means of laws enacted by their representatives.

This is the essence of the sovereignty argument against public sector unionism—that collective bargaining undercuts the inherent power of the state as a sovereign representative of the people, and therefore is anti-democratic.

Through the 1960s, opposition to public sector unionism largely rested on the idea that it undercut the sovereignty of government.

To this day, a few states, clustered in the South, completely ban collective bargaining by state and local government workers, while others limit it in various ways, often resting on the same state sovereignty argument Coolidge and Roosevelt made many decades ago. But over time, in much of the country, sovereignty objections to public sector unionism diminished. The vast expansion of the labor movement in the mid-twentieth century made everyone, including political authorities, more accustomed to the central presence of unions in American life.

Starting in the late 1950s, a set of ideas and laws emerged which created in the public sector a variation of unionism that granted workers different, and usually reduced, rights compared to private employees. In most of the country, when public sector workers won the right to unionize, they did so under rules and systems designed, in part, to address the sovereignty issue. In 1959, Wisconsin—with its long history of progressive labor legislation and a recent increase in Democratic power—passed the first state law granting the right to public sector collective bargaining after a campaign by the American Federation of State, County and Municipal Employees. The law exempted public safety workers—the Boston police strike cast a long shadow—and forbid government employees from striking. In New York City, which pioneered municipal unionism, public employee strikes were illegal, too, though they nonetheless occurred. The federal government, which allowed collective bargaining beginning in 1962, likewise banned strikes. Some government employers also forbid collective bargaining over public policy, again addressing the sovereignty issue. In New York City, for example, after a 1965 strike when social workers demanded and won improved benefits for their clients, the city government specifically forbid bargaining over the level of services city agencies delivered, diminishing the possibilities for alliances between service providers and service users.

Such arrangements lessened concern over government worker unionism. When, in 1970, postal workers engaged in the largest public worker strike in U.S. history, Richard Nixon called out the National Guard but also allowed Secretary of Labor George Shultz to engage in collective bargaining to end the walkout. Reflecting the new consensus on public sector unionism (at least outside of the South), and the still formidable power of the labor movement, Congress endorsed most of the agreement Shultz and the unions worked out and allowed future bargaining. But it also denied postal workers the right to strike or have a union shop.

The next wave of opposition to public sector unionism, just a few years later, saw new arguments deployed. In the mid-1970s, a deep recession left many states and cities in fiscal difficulty, with New York City capturing national attention as it hovered on the edge of bankruptcy. (Cleveland actually did default on its debt.) But even at the height of the fiscal crisis, political conservatives—like Secretary of Treasury William Simon—and bankers—like First National City Bank's Walter Wriston—who fiercely opposed municipal unions, by and large did not call for a withdrawal of their bargaining rights or question their basic legitimacy. Rather, they opposed what those unions had concretely achieved through bargaining and militant action. Their core argument was that public sector unions had won wages and benefits beyond what government entities could afford. Accordingly, they demanded wage and benefits concessions from the unions, which they achieved, but achieved through collective bargaining.

The 1919 Boston police strike showed how far public employers would go to block public sector militancy.

For some fiscal-crisis-era opponents of the public sector unions, the argument was not simply about budgets, however. Simon and many other conservatives detested what they saw as the growth of an overly-generous social welfare state, exemplified by New York City. They targeted what, in their view, were excessive municipal employee pay rates and benefits as part of the broad problem of an overly-generous social wage. For conservative critics of government unionism, high municipal pay rates and pensions were of a piece with free tuition at the City University of New York, cheap mass transit, and rent control, all of which—except for the last—they managed to chip away at. Many private employers wanted to weaken public sector unions, too, or at least roll back their contracts, because the benefits (though not the pay) their companies offered paled in comparison. They did not want an ample benchmark of employee benefits set by the state. The fight over public sector unionism was thus part of a broader class struggle, an attack on the working class by ruling elites in the face of global economic stagnation.

In New York, municipal unions made preserving collective bargaining a central goal. Their ability to do so—they actually strengthened their institutional rights when they got the state legislature to agree to the agency shop (requiring workers who decline to join the union representing them to pay a fee in lieu of dues)—was a measure of their power, but also of the diminished importance of the sovereignty argument questioning the very legitimacy of public sector unionism. The most high-profile attack on publicly-employed unionists since the Boston police strike, Ronald Reagan's firing of the PATCO strikers in 1981, had a more fundamental effect in the private sector, emboldening employers to break strikes and attack unions, than in the public sector, where unions continued to grow.

Which brings us to the third, current wave of opposition to public sector unionism. What we are seeing now is the recapitulation and revival of all the old arguments against public sector unionism, and then some new ones. Budgetary problems have been the occasion for reopening the question of public sector unionism and the justification for seeking to lower pay, benefits, and bargaining rights. Some harsh anti-union officials, like New Jersey Governor Chris Christie, have been pretty much willing to stop at reducing the cost of publicly-employed labor. But as Wisconsin Governor Scott Walker demonstrated, even when unionists have addressed budgetary concerns anti-unionism has continued, suggesting that the recession—perhaps together with the drastic decline in the power and reputation of the labor movement generally—has been an opportunity for as much as a cause of the revived assault.

In Wisconsin and elsewhere, the sovereignty argument has reemerged in several forms. It is often recast as an efficiency issue; government leaders need flexibility to provide the best and most cost-efficient services as possible. Particularly in regard to teachers' unions, critics have argued that seniority systems and tenure impede the workings of meritocracy, which they claim makes the private sector more efficient than government. And the sovereignty-cum-democracy argument is now revived as an effort to take on unions as a special interest that has hijacked the people's government in its own behalf. Some of the proposals for revising state public employee bargaining laws specifically ban bargaining over public policy issues.

But other arguments and motivations have emerged, too, some unspoken. Part of what we are seeing is a partisan strategy to defund the Democratic Party, which has received massive amounts of money from the union movement in recent years, especially from public sector unions (which, nationally, now represent a majority of union members). Thus the new push to deny public sector unions bargaining rights is largely a Republican phenomenon. In Massachusetts, though, Democrats led an effort to deny municipal workers the right to bargain over health care benefits, infuriating their union backers.

Finally, there is one more basis for the current push against public sector unions, and that is that they are seen as representatives of the state itself, which is now cast in almost completely negative terms. Government worker power and pay, so the argument goes, should be chopped down to size because government should be chopped down to size. Government is bad because it impedes liberty and sucks resources from its citizenry. This is almost the reverse of the old sovereignty argument. The problem with government employee unions is not that they undermine the power of the state but that they are part of it—symbolically and practically. Unions hamper the disassembly of the state: lay-offs, agency closures, budget cuts, privatization, and the elimination of welfare benefits. So unions have to go.

So today we face layer on layer of anti-public sector union arguments. It is a tough challenge. But, of course, the amazing mobilizations that occurred in response to anti-union attacks in Wisconsin, Indiana, Ohio, and elsewhere make it clear that there is another side to this story. Americans, by and large, do not hate school teachers or policemen or the highway crew. They may think government is too big and their taxes are too high—though it is not clear most do—but they do not share the broad anti-statism that informs much of the current attack on public sector unions. Some low-paid workers no doubt resent paying taxes to finance government worker benefits like pensions and health insurance that they themselves do not receive. But today's attack on public sector unionism is not a populist revolt—it's a movement from the top down, led and financed by some of the wealthiest people and corporations in the country. The solidarity displayed in Madison, which extended beyond the public sector unions to the entire union movement and to students, activists, and common citizens, suggests that—although the public sector unions and their allies confront both a fiscal crisis and a thick layering of arguments against them—there are good reasons for hope.

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