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INDEPENDENT OFFICES
APPROPRIATIONS, 1963

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SUPPLEMENT TO
HEARINGS
BEFORE THE
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS
SECOND SESSION

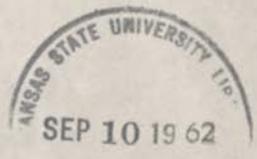
ON

H.R. 12711

MAKING APPROPRIATIONS FOR SUNDRY INDEPENDENT
EXECUTIVE BUREAUS, BOARDS, COMMISSIONS, CORPORATIONS,
AGENCIES, AND OFFICES, FOR THE FISCAL YEAR
ENDING JUNE 30, 1963, AND FOR OTHER PURPOSES

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U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1962

INDEPENDENT OFFICES APPROPRIATIONS FOR 1963

TUESDAY, AUGUST 7, 1962

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:55 a.m., in room F-37, the Capitol, Hon. Warren G. Magnuson (chairman) presiding. Present: Senators Magnuson, Ellender, Monroney, Allott, Kuchel, and Cotton.

CIVIL SERVICE COMMISSION

STATEMENT OF JOHN W. MACY, JR., CHAIRMAN, ACCOMPANIED BY WARREN B. IRONS, EXECUTIVE DIRECTOR; ANDREW E. RUDDOCK, DIRECTOR, BUREAU OF RETIREMENT AND INSURANCE; AND W. B. UHLENHOP, CHIEF, BUDGET AND FINANCE DIVISION

SITUATION IN COLORADO

Senator MAGNUSON. The committee will come to order.

We have the Civil Service Commission here today, and its chairman, Mr. Macy, is here.

(The committee proceeded to consider items in the Civil Service Commission budget as set forth in the regular printed hearings during which the following discussion occurred:)

Senator ALLOTT. Mr. Chairman, if I may, I would like to go into one matter very briefly. Earlier this year, and last year, I took up with Mr. Macy the situation in Denver with respect to the post office situation there. I told you on numerous occasions by letter and otherwise, and I have part of my file here, that the situation in Denver was one which was a violation of the letter and spirit of civil service regulations and procedures.

I must say, Mr. Macy, that I was very dissatisfied with the way in which the investigation was carried out. The so-called investigation glossed over and whitewashed the situation.

I have numerous affidavits here in my file, any one of which I think I would be satisfied to take to a jury with very little question that I could prove that these people were coerced and squeezed out of their jobs for political reasons. Particularly when men who have lived and resided in Denver for a number of years, as several of them have, are coerced out of their position and offered a job three grades lower in Seattle or some other place.

Senator MAGNUSON. It is a good place to send them.

Senator ALLOTT. But less desirable to live, Mr. Chairman, from the viewpoint of any Coloradan.

Senator MAGNUSON. Off the record.

(Discussion off the record.)

Senator ALLOTT. I do not know how you can gloss over this matter. Even if there was just one person involved it would not make any difference. I cannot understand how you can say there were procedural errors, but we will just ignore it and let it go.

INTERVIEWS OF EMPLOYEES WITH COMPLAINTS

Mr. MACY. Senator, I disagree that this was glossed over while investigated. There were 10 employees who had complaints in that office and all were interviewed. The regional director was interviewed. Each action was analyzed. As I indicated to you in my letter of February 5, my judgment was that the regional director had not employed desirable management or personnel practices, but there were no violations of civil service regulations or law in these individual cases. It is the right of the agency manager to transfer personnel between locations.

The manner in which these transfers were proposed certainly does not conform to my view of the way you handle employees. There is no evidence that these actions had been taken for political reasons, and they found the registration of the employees involved included membership in both the major parties, and some were independents.

CONDITION IN POST OFFICE DEPARTMENT

The investigation assisted us in identifying a condition in the Post Office Department that required improvement in order to insure that assignments were made properly, and Postmaster General Day and I have worked to develop standards that will assure that there will be appropriate assignments in the future.

I have checked recently with respect to the office out there and I have been assured that there has been no repetition of the actions you complained to me about.

Senator ALLOTT. It was a matter where there would be no repetition primarily because they cleaned everybody out that didn't agree with their political philosophy.

OBJECTIVE TO ACHIEVE CIVIL SERVICE FREE FROM POLITICAL ACTIVITY

Mr. MACY. There is no evidence in the report to that effect. I think you and I have the same objective of achieving a civil service that is free from political activity, and we want to see the Post Office established on a sound merit basis. But as far as these particular actions are concerned, there were no violations of existing regulations.

REMOVAL OF LAWRENCE STRALEY

Senator ALLOTT. Here is one man, Lawrence Straley, who was told unequivocally and flatly by the regional personnel manager that although his service had been excellent and he had nothing against him, since he came into the service under a previous administration he was going to get rid of him. This same pattern, Mr. Macy, is repeated, I will tell you, in the Denver post office, and not confined to the Denver regional office.

Mr. MACY. The Denver regional office.

LETTERS FROM DEMOCRATS AS WELL AS REPUBLICANS

Senator ALLOTT. The highhanded political removal of people has not only caused a great concern with those people who happen to register Republican, but I have in my files many letters from people who are registered Democrats who are just as concerned about their jobs, and concerned that their position will be held only to the extent that their political devotion is displayed.

I cannot give you the affidavits of some of these people because they are still employed. For obvious reasons I have to keep their confidence. But my file is quite complete in this respect.

TRANSFER OF EMPLOYEES

I must say that your answers to my letters, first of all, convinced me that there was not a genuine concern for the individual. When a man has lived in one place and done his job well for 15 years, there is no reason why a new director should transfer him to another place causing him to sell his home, perhaps at a loss, and pick up his family and make new friends. And it is not just a question of an injustice to him or somebody else. I will say flatly what you have provided me with in this file is one of the best things I could ever use if and when there is a change of administration for a justification of the worst kind of Jacksonian political domination of the civil service system.

You can answer that or not.

Mr. MACY. My investigation does not support that serious charge. I see no grounds for such an accusation. The office about which you speak is one that was created in the previous administration and staffed in accordance with the political views of that administration. I think it is unfortunate that such a practice was followed. However, the effort has been made in the present administration to see to it that standards of the civil service have been maintained in these offices.

If you have additional evidence of violation of the law, obviously my responsibility under my oath of office is to have a further investigation of it, but the investigation previously conducted with all substantive objectivity does not demonstrate the charges you make.

NAMES OF DISCHARGED EMPLOYEES

Senator ELLENDER. Senator Allott, do you have the names of anybody who has been discharged, from which Mr. Macy could tell us why that person was discharged? Because I think if all of that is in the record it ought to be clarified, because those are severe charges you make.

Senator ALLOTT. One of the persons about whom I speak is a woman by the name of Backus. And a man by the name of Britton. Another man Straley. Another man Prokop. I have another one here, a Mr. Staples.

The last letter I have from Mr. Macy and Postmaster General Day's testimony before our committee, both set out a lot of facts, but Mr. Staples comes back immediately and says that these facts are just absolutely not true, and that the records will verify they are not true.

Mr. MACY. Yet the Postmaster General sent you a letter indicating that the statement that was made was taken out of context from his comments before the committee.

Senator ALLOTT. Which letter are you referring to?

Mr. MACY. I believe you are misleading the committee, Senator. Staples was not removed. He resigned. Let's stick to the facts.

RESIGNATION UNDER POLITICAL PRESSURE

Senator ALLOTT. Let's stick to the facts. He resigned under pressure—under political pressure.

Mr. MACY. There is no evidence to that effect. He resigned rather than transfer to Philadelphia.

Senator ALLOTT. That is right. This is what concerns me. You have completely supported the Post Office Department in getting rid of the people under the guise of transfers. I see no justification for this, whether it is a Republican administration or a Democratic administration.

Mr. MACY. Senator, there is no legal requirement that the head of an agency cannot transfer personnel between locations in the United States. It is a part of his prerogatives in managing his organization.

Senator ALLOTT. If you choose to blink your eyes at the political implications of it, Mr. Macy, I cannot do anything about it, but I say this: That the transfers were effected, and not because these people were actively participating in politics, but mostly simply because, one, they were either registered Republicans, or, two, happened to have entered the position during the previous administration. Most of them came up through the ranks, I might add.

POLITICAL CLEARANCE UNDER PREVIOUS ADMINISTRATION

Mr. MACY. As I say, in staffing the office originally in the previous administration, there was political clearance in most of the cases.

Senator ALLOTT. I want to say further that as of today my files, with the exception of those who are still employed and whom I feel I must cover, are entirely open to you or your investigative staff to look at.

Mr. MACY. Do they add additional information beyond that which was available to the Commission when it conducted this investigation last fall?

Senator ALLOTT. I am not sure. When was this done?

Mr. MACY. The investigation was conducted and I advised you last fall.

Senator ALLOTT. I believe all of this information was available, or a substantial or major portion of it, at least, was available to the Commission when it conducted its investigation.

Senator MAGNUSON. The chairman suggests that the record stay open and the Civil Service Commission can make a decision if they want to look at the files, and to have new additional information available. If not, the record is open to put the results of the investigation in the record, if you so choose.

Senator ELLENDER. I believe, in view of the fact that Senator Allott made these charges, and he has named five people, as I remember it, and one of them resigned and the others were evidently fired,

I wonder if Mr. Macy would put in the record the reasons for them being fired.

Mr. MACY. None of these people were fired, Senator. It is not accurate.

Senator ALLOTT. No.

Mr. MACY. They resigned or requested reassignment.

Senator ALLOTT. I think this is correct. They were not actually fired outright, but were placed in the position of either resigning or accepting an assignment somewhere else at a lower grade.

Senator ELLENDER. I have had some cases like that myself in the last 27 years I have been in the Senate.

Senator MAGNUSON. I have had them under all administrations.

Senator ELLENDER. I have had them under all of them. There is nothing peculiar about it.

ACTION CORRECTED ON APPEAL

Mr. MACY. I might say, in view of the charges, that in one case where an improper action was represented, and a reduction in force appeal was made to the Civil Service Commission, that the action was corrected. So I believe there is no justification for charges of failure to perform the Commission's responsibility.

Senator MAGNUSON. All right. Are there any further questions?

Senator ALLOTT. I repeat one thing, Mr. Macy: With the exception of those people I must protect, my files are still open to you to see whether or not the spirit and intent of the civil service laws were upheld. I do not believe they were.

Senator MAGNUSON. Off the record.

(Discussion off the record.)

(Subsequently, the following letter was received from Mr. John W. Macy, Chairman, Civil Service Commission:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., August 20, 1962.

HOB. WARREN G. MAGNUSON,
Chairman, Subcommittee on Independent Offices Appropriation Bill for 1963, U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: In the course of the appropriations hearings before your subcommittee on August 7, Senator Allott raised with me a number of questions concerning personnel operations in the Denver regional office of the Post Office Department. At the conclusion of the hearing, you kindly invited me to supplement the record with further information which might be helpful to a more comprehensive understanding of this situation. I am pleased to accept the invitation and to provide a more detailed picture than was possible to develop in the course of the hearing of the information secured by the Civil Service Commission during its inquiry into the personnel conditions questioned. In addition, I am providing an analysis of the action taken by the Commission in the light of its findings and the circumstances involved.

The proper protection of the legal rights of individual Federal employees is a particularly significant and important responsibility of the Civil Service Commission. Insofar as the legal authority vested in the Civil Service Commission permits, definitive and decisive corrective action is ordered when it has been established that a violation or deprivation of rights has occurred in a matter within the jurisdiction of the Commission. I wish to assure the committee that decisions on matters of this type, affecting the rights of employees entitled to protection afforded by civil service regulations, are made on a completely objective basis, without compromise or promise. I should add, however, that the Commission's ability and, indeed its authority to act in a given case, involves two basic conditions. First, the affected employee must avail himself of the remedies available under the law and civil service regulations, and, second, the point at issue must be one on which the Commission has enforceable jurisdiction.

In October 1961 I received complaints from three Members of the Senate concerning alleged violations of civil service regulations in personnel actions taken by the regional director of the post office regional office in Denver with respect to the employees of that office. In response to these complaints, and with the knowledge and cooperation of the Postmaster General, I initiated an inquiry into the personnel operations of that office to ascertain the facts involved. Every effort was made to conduct an impartial and thorough investigation. The Chief of the Commission's Investigations Division in the Seattle region, a man who had no connections or association with the Post Office or Commission staffs in Denver, was assigned to make the inquiry. He devoted a total of 6 days in interviewing present and former employees, in reviewing records, and in questioning the regional director. Through the cooperation of the Postmaster General a postal inspector also participated in the investigation. But the Commission's examination was complete in its own right and findings were reached independently of the Post Office Department.

It was my opinion from reviewing the findings, and I so expressed it to the Postmaster General, that the approach and manner employed by the regional director in Denver in dealing with certain employees in that office was definitely "not in keeping with good personnel practices." By agreement with the Postmaster General, the regional director received strong instructions to avoid any repetition of the procedures used and to follow fully the spirit as well as the letter of personnel policies and regulations. If this agreement had not been reached, I would have pressed for a further solution, although it is important to recognize that the Commission has no legal authority to impose disciplinary action on an official of another agency.

I think it is appropriate to point out that following the Commission's inquiry actions of the type in question were not repeated in the Denver regional office and, to my knowledge, no similar questions have arisen with respect to other offices.

A byproduct of major importance from the inquiry was the development of qualifications standards for regional office positions in the Post Office Department. With the promulgation of appropriate and specific requirements for postal field positions, more accurate and definitive placement actions can be assured and potential controversies drastically curtailed.

I would like to turn now to the findings with respect to the individual employees involved. I believe it would be helpful to identify the essential facts in each of the cases reviewed to demonstrate the factors controlling the Commission's subsequent action relating to those cases.

A total of 10 employees or former employees alleged irregularities in personnel actions affecting them. Affidavits were taken from each of the individuals concerned. The investigation established that no adverse action had been affected with respect to five of the employees. They remain on the rolls of the office at the same grade and salary they had held. Since no action of any type was taken in these five cases, they could not be considered at issue.

The facts and circumstances established in the other five cases are as follows:

In one case, an employee occupying an PFS-13 position received notice that his position was abolished and that he would be separated from the rolls. That employee appealed to the Civil Service Commission, his appeal was accepted under the Commission's regulations governing reduction-in-force, and it was subsequently determined that the action was improper and the employee was offered restoration to his position. The maximum remedy the Commission can afford an appellant in a case of this type is restoration to his former position or to a position of like grade, pay, and tenure. Therefore, the maximum remedy was afforded following review of an appropriately submitted appeal. In this instance, however, the employee declined the offer of restoration and withdrew his appeal. In the interim he had applied for discontinued service retirement. The file indicates that if the employee had accepted restoration, the Post Office Department intended to propose his transfer to another office at the same grade level and salary.

The second of the five cases involved an employee who resigned from his PFS-16 position rather than accept an offer of transfer involving a two-grade demotion. This particular employee occupied a position in which he was well acquainted with the laws and regulations pertaining to civil service employment. In fact, he had primary responsibility for the application and implementation of such provisions in that office. Serving in the position he did, the employee was fully aware of the courses of action that were open to him if he believed his rights had been violated. However, he chose to resign and made no appeal to the Civil Serv-

ice Commission. In the course of normal operations resignations are received and there is no basis for the Commission, in the absence of any request from the individual, to review the circumstances surrounding the submission of his resignation. More than 4 months later, the employee requested the Commission to order his restoration. But at that point, the 10-day period for appeal had long elapsed and there was no showing that the appellant was not aware of the time limitations for appeal or that circumstances beyond his control prevented him from filing the appeal. Reasonable time limits for appeal must be prescribed and adhered to. The Commission was without a proper basis to accept an appeal at that late date in one individual case since it uniformly does not accept belated appeals under such circumstances.

In two of the cases remaining, the employees submitted requests for demotion to lower grade positions (one grade lower in one instance, and two grades lower in the other), and their reductions in grade were effected in accordance with these requests. Here, again, the employees concerned did not submit an appeal to the Civil Service Commission. There was no reason for assuming the requests submitted by them were for position changes they did not in fact desire. Subsequent investigation disclosed that the requests for change to lower grade were apparently proposed by a supervisory official and were thus in violation of postal regulations. The Commission called this violation to the attention of the Post Office Department, but as far as further action on the individual cases was concerned, the Commission could not on its own motion require corrective action when in these cases the action involved should proceed from an employee's election to pursue the administrative remedies available to him.

The final case involved an employee who resigned rather than accept reassignment from that regional office to another one at the same grade level and salary. This element was also involved in the first of the cases already mentioned. A proposed reassignment of that type does not constitute an adverse action so long as there is no reduction in rank or compensation. The types of adverse actions subject to appellate review by the Commission under such statutes as the Lloyd-LaFollette Act of 1912 and the Veterans Preference Act of 1944 include discharges, suspensions, furloughs, and reductions in pay, but geographical transfers at the same grade level are not included. Agency decisions to effect lateral reassignments of its personnel as the needs of the service require are not subject to review by the Commission. As in the four cases previously cited, then, there was no basis in this instance for corrective action by the Civil Service Commission.

The above information was conveyed to Senator Allott and the other interested Senators through correspondence in response to their requests.

Viewed in the light of these facts and circumstances, it is my hope that the committee will agree that the Commission promptly and thoroughly investigated the complaints in these individual cases and acted properly and affirmatively based on the findings of the investigation. By taking action to improve personnel operations in the Denver regional office through agreement with the Department, the Commission has contributed to a strengthening of personnel practices not only in Denver but throughout the postal service. The decisions reached in the individual cases were judged to be appropriate within the limits of the Commission's jurisdiction. If, however, there are further questions with respect to the circumstances in this inquiry, I would be pleased to cooperate with your committee or with individual Senators in any way possible. To this end, on August 10 I requested permission of Senator Allott to review any nonconfidential material he might have which would throw additional light on these cases. If we receive his permission and any significant information is developed I will certainly advise you further.

I wish to express my appreciation for this opportunity to provide a further explanation of the matter for the record of your subcommittee.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

(The committee then proceeded to other items and recessed at 4:40 p.m., Tuesday, August 7, 1962.)



THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

TO THE HONORABLE SENATE OF THE UNIVERSITY OF CHICAGO
IN CONNECTION WITH THE PROPOSAL OF THE DEPARTMENT OF CHEMISTRY
TO REORGANIZE THE DEPARTMENT OF CHEMISTRY

BY THE DEPARTMENT OF CHEMISTRY
AND THE FACULTY OF THE DEPARTMENT OF CHEMISTRY

CHICAGO, ILLINOIS
MAY 1954

THE DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

CHICAGO, ILLINOIS

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