

THE POLITICAL SIGNIFICANCE OF THE
OKLAHOMA MERIT SYSTEM,

By

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TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION	1
II. THE INTRODUCTION OF THE MERIT SYSTEM IN OKLAHOMA	4
History of the Merit System	4
Administrative Structure of the Merit System	7
Financing the Merit System	9
The Patronage System	10
Restrictions on Political Activity under the Merit System	12
Unique Features of the Merit System Law	14
Initial Problems of the Merit System	15
Modifications in the Patronage System	21
Administration	23
III. THE MERIT SYSTEM'S EFFECT ON POLITICS	29
Legislative Opposition to the Merit System	30
Opposition from Elected Administrative Officials	39
Party Opposition	43
Opposition Evaluated	45
IV. THE SIGNIFICANCE OF THE RETENTION OF THE MERIT SYSTEM	49
Legislative Attack on the Merit System	49
Judicial Attack on the Merit System	59
Efforts to Discredit the Merit System	62
V. CONCLUSION	65
BIBLIOGRAPHY	69

CHAPTER I

INTRODUCTION

It is generally held by students of public administration that a merit system is a prerequisite for the improvement of state administration. With the ever-expanding functions of government, there has been a growing necessity for competency, especially in specialized fields of government service. A properly administered merit system helps provide favorable working conditions and adequate incentives to these qualified employees needed in public administration. It has been observed that "merit systems make their greatest inroads into patronage in the well-paid, specialized positions where the call for expertness and training is greatest."¹ The qualified employees can more easily be attracted to public employment when there is an assurance of job security, a pay scale commensurate with competency and qualifications, prospects for advancement based upon merit, and an adequate retirement program. Without such a program, the state is at a disadvantage in the competitive labor market as it is unable to offer the same security or incentives that many of the private industries offer. Yet, in terms of size, government is often the largest industry, if it may be considered such, operating in the state.

A second rationale underlying the merit system is that, politically speaking, patronage is no longer considered to be a political asset to

¹Frank J. Sorauf, "The Silent Revolution in Patronage," Public Administration Review, XX (Winter, 1960), p. 30.

the parties and politicians. Not only is patronage losing its value as a political incentive, but it is also losing its respectability. The traditional quid pro quo can no longer be justified as a basis for public employment, and there has been much public indignation over mass firings after each election. Furthermore, job-seekers themselves are no longer fulfilling their purported obligations under the conditions of patronage employment.² As a consequence of the decline of the role of political incentives under patronage and the fact that patronage is considered as "undesirable" in public administration, many public officials feel that it should be replaced by merit employment.

The purpose of this study is to consider Oklahoma's Merit System of Personnel Administration in terms of its influence upon public administration and its influence upon state politics. The study seeks to determine what have been the political consequences of the merit system in terms of altering the existing political system, and whether these changes have been followed by any appreciable alteration in personnel administration.

Chapter two of the study includes a brief history of the merit system, descriptions of the administration of the merit system, the basic provisions of the law, outstanding administrative features of the merit system, problems arising from the implementation of the law, and brief consideration of the scope and aims of the merit system. Chapter three describes the

²Ibid. It is Mr. Sorauf's observation that: (1) patronage does not meet the present-day needs of party operations; (2) patronage is no longer the inducement that it once was; (3) as a result, the incentives once produced by patronage are being replaced in the political system; (4) and this change in the party structure will witness: further party centralization, heightening the ideological appeal of the party, a greater reliance on group participation in politics, greater nationalization of the candidate image and party campaigning, and the establishment of some modicum of party discipline.

consequences of the merit system in terms of its effects on the traditional political structure in the state. Chapter four considers the attempts to weaken the merit system and the significance of its retention in spite of these efforts. Chapter five returns to the original problem posed here and attempts to answer the central questions in terms appropriate to the analyses given in the previous chapters.

CHAPTER II

THE INTRODUCTION OF THE MERIT SYSTEM

IN OKLAHOMA

History of the Merit System

Oklahoma's Merit System of Personnel Administration became a political reality in the 27th session of the Oklahoma Legislature. Prior to the 1959 legislative session, there had been a long succession of efforts to improve state employment and to eliminate some of the practices of the patronage system. At almost every legislative session, measures were introduced which would have improved state employment and either modified or abolished the patronage system. In each of the four sessions preceding the 1959 legislative session, there had been at least one bill introduced in the legislature which would have either reduced the number of work hours of the state employee, provided for a retirement system, placed limitations on political contributions by state employees, or provided for a state-wide system of uniform job classifications and pay schedules. Of all these measures, the only successful modification in the state's personnel administration was that of the uniform system of job classifications and pay schedules which was to be administered by the State Salary Administration.¹ Although this particular measure was something of an improvement in the existing conditions, it was limited in its effect as the administrative agency had no authority to enforce

¹Journal of the House of Representatives of the Twenty-Sixth Legislature of the State of Oklahoma, 1957, p. 1391.

the law.

In 1958, J. Howard Edmondson ran for governor on a reform platform. Included in this platform was a proposal for a state-wide merit system. After his election, Governor Edmondson in his message to the legislature proposed a "merit system that would provide job security, protection, and advancement as a reward for able and faithful service."²

The legislative history of the bill which provided for the merit system covered the entire session, and the final enactment of the merit system measure was only achieved after a session-long struggle among the House of Representatives, the Senate and Governor Edmondson.

Those in the legislature who opposed the bill attempted to enfeeble it by altering the administration of the provisions of the bill. The original bill which was sponsored by Representative Frank Ogden of Guymon provided for a seven-member Personnel Board whose members were to be appointed by the governor. Those who opposed the bill attempted to weaken its effectiveness by amending it so that the administration of the law would be entrusted to a seven-member board composed of ex-officio members. These would have been: three elected officials, one appointed official, and three from the legislature.³ It was the plan of the opposition group to create an administrative board which would not be inclined to enforce the provisions of the act.

The merit system as finally enacted came out of a joint conference committee the day before the session ended. Many of the legislators,

²Journal of the House of Representatives of the Twenty-Seventh Legislature of the State of Oklahoma, 1959, p. 98.

³Ibid., p. 724.

especially those of the Senate, felt that they were pressured into passing the bill or "face administration patronage charges."⁴ Senator Ray Fine of Gore expressed this feeling when he said:

Governor Edmondson forced this bill through the legislature. He was the most popularly elected governor we've had, and he thought of his position as a mandate from the people which allowed him to use these tactics.⁵

Once the merit system became law, the second phase of its history began as efforts were made to translate the provisions of the law into a workable system of personnel administration.⁶ No matter how perfect the law might have been, it was born in an atmosphere of hostility. Not only were the legislators thinking in terms of political patronage as the basis for public employment, but many of the administrative heads who operated their departments and agencies on the basis of the patronage system found the principles of merit employment opposed to the manner in which they had been operating their respective organizations. Although there were a few state agencies which had intra-department merit systems, the majority of state employment was based upon patronage appointments.⁷ State employees themselves were unfamiliar with merit employment, and this

⁴The Tulsa Tribune, July 28, 1960.

⁵Ray Fine, state Senator from Gore, Oklahoma, Personal Interview, Oklahoma City, February 19, 1963.

⁶Some of the most recurrent objections made of the merit system were directed at the activities of the Personnel Board during this transition period.

⁷Federal laws require agencies receiving federal grants-in-aid to be administered on the basis of a merit system which must meet specified standards. As a result of these requirements, the Employment Security Commission, the Crippled Children's Commission, the Oklahoma State Department of Health, and the State Department of Public Welfare, had their respective intra-agency merit systems. The Highway Patrol had its own merit system.

added further difficulties in terms of educating state employees to the concepts of job security based upon personal qualifications. Finally, the merit system was confronted with many administrative and technical difficulties. Many of these problems were the natural consequence of the attempt to innovate a new program of personnel administration, and in many instances, for lack of foresight, these difficulties were unavoidable.

Administrative Structure of the Merit System

Responsibility for the administration of the merit system resides upon the Personnel Board and a Director of Personnel Administration. The Personnel Board is comprised of seven members appointed by the governor without the approval of the Senate.⁸ One of the board members is appointed from each of the six congressional districts while the seventh is appointed at large. At no one time shall more than four persons from any one party serve on the Personnel Board. The members serve for seven-year overlapping terms. They are paid \$15.00 per diem not to exceed ten days out of the month. From their members, they are instructed to choose a chairman.⁹

The primary function of the Personnel Board is to make policy for the administration of the merit system. It is charged with the responsibility of framing rules and regulations, determining the application of the law, and appointing the Personnel Director. It is to hear appeals from employees

⁸This unchecked power of the governor to appoint the Personnel Board was the most criticized feature of the merit system by the legislators. The majority of the senators interviewed mentioned the governor's unlimited power in appointing the board. It was continually inferred that the Personnel Board was not given the freedom to determine policy and was subject to the influence of the governor.

⁹Oklahoma Statutes, 1961, Title 74, Section 804, p. 1826. Present board members are: Richard M. Knox, Enid; James J. Hunter, Bartlesville; B. D. Salmon; James B. Miller, Shawnee; Mrs. Corinne Breeding, Oklahoma City; Raymond Fields, Guymon; and Dale A. Schmitt, Oklahoma City. Mr. Schmitt is the chairman of the board.

and decide upon subsequent action as a result of these appeals. The Personnel Board authorizes the budget prepared by the Director, approves the annual report of the Director, and submits the report to the governor and legislature. It also investigates any alleged violation of the provisions of the merit system law.¹⁰

The day-to-day administrative responsibilities are entrusted to the Personnel Director who is appointed by the Personnel Board. The Personnel Director serves at the discretion of the Personnel Board, and he is required to have competence in personnel administration. He must meet both age and residence requirements and receives an annual salary of \$10,000.¹¹

In addition to carrying out policies and regulations set forth by the Personnel Board, the Personnel Director is responsible for the development of examinations, the administration of the examinations, the certification of employees for employment, and the maintenance of an employment register.¹² He is entrusted with the authority to withhold certification of payrolls if there is a violation of any rules of the law.¹³ He is also responsible for the development of job classifications and pay scales,¹⁴ the preparation of the annual budget, submitting annual reports, acting as secretary for the Personnel Board, and working to create an atmosphere of leadership and cooperation among departments and agencies.¹⁵

¹⁰Ibid., Title 74, Section 805, p. 1827.

¹¹Ibid., Title 74, Section 806, pp. 1827-1828.

¹²Ibid., Title 74, Sections 831 and 832, pp. 1830-1831.

¹³Ibid., Title 74, Section 810, p. 1828.

¹⁴Ibid., Title 74, Section 820, p. 1830.

¹⁵Ibid., Title 74, Section 806, p. 1827. The present Personnel

Financing the Merit System

The cost for financing the merit system is shared proportionately by the agencies which are included in its jurisdiction. The pro rata share of each participating agency is obtained by dividing the total number of employees covered by the merit system into the entire cost of its administration. Each agency's share is then determined by multiplying the number of its employees by the pro rata share for the individual employee.¹⁶

The cost of administering Oklahoma's merit system has been relatively low in comparison to other states. In 1961, it cost the state \$12.01 per year per person to administer the merit system. In a nation-wide scale, Oklahoma's system was the fourth from the bottom in terms of cost per employee. Alabama's merit system cost only \$10.64 per employee in 1961, while Michigan, which was the highest, spent \$39.12 per employee. The total cost of administering the merit system in 1961 was \$153,721.94.¹⁷

In 1962, the cost of administering the merit system increased slightly. Whereas in 1961 the monthly per capita cost was \$1.00, the monthly operating cost in 1962 rose to \$1.19. Part of this increase can be attributed to the classification program, an increase in administrative personnel, increases in office rents, and increases in travel expenditures.¹⁸ Further-

Director is Mr. Wallace L. Keating. Mr. Keating was selected from a group of twenty-six applicants. After serving the Personnel Board as a member of the advisory committee appointed by Governor Edmondson to help set up the merit system, he was asked by members of the Personnel Board to apply for the position. Prior to his appointment as Personnel Director, Mr. Keating served as personnel director for the Roberson Steel Company of Oklahoma City for eleven years.

¹⁶Ibid., Title 74, Section 813, p. 1829.

¹⁷Oklahoma Personnel Board, Annual Report, 1961.

¹⁸State Personnel Board, Invoice, April 1-June 30, 1962.

more, the 1963 budget of the Personnel Board also shows an upward trend which can be attributed to proposed increases in the number of employees who will be employed by the Personnel Board.¹⁹

The Patronage System

Supporters of political reform in Oklahoma have consistently argued for a merit system which would take public employment out of politics and make personal qualifications the basis for employment. The evils of the patronage system have been discussed by H. O. Walby in The Patronage System in Oklahoma. Mr. Walby cites instances when the state payrolls were padded. In 1939, a Kiowa County grand jury found in its investigations of the payrolls of the Highway Department that a hill-billy band had been placed on the payroll while Governor Marland was seeking election in the United States Senate.²⁰ There have been instances of political struggles over the control of patronage in the public employment of the state. After Allen G. Nichols had been defeated by Virgil Medlock for state Senator from Pontotoc County in 1946, friends of Nichols who worked for the Highway Department would not fire Nichols' appointments and replace them with those of Medlock.²¹ Furthermore, there were repeated occasions of interference with personnel administration, and this was especially true in the administration of the state institutions.²²

¹⁹State of Oklahoma, Budget, for the fiscal year ending June 30, 1964-1965.

²⁰H. O. Walby, The Patronage System in Oklahoma (Norman: The Transcript Company, 1950), p. 7.

²¹Ibid., p. 10.

²²Ibid., pp. 12-18.

With each new administration there followed a wide-spread dismissal of state employees who had been appointed under the previous administration.²³ There are also examples of state jobs being sold to potential employees. In 1936, Representative Oren B. Thomas, Jackson County, charged that many of the legislators were selling jobs to their constituents for fifty dollars for each appointment. There are other cases when county grand juries have brought charges against legislators for selling state jobs, and there have been convictions resulting from these charges.²⁴

Although Oklahoma has statutes prohibiting the practice of nepotism in the state service, these prohibitions have been avoided or ignored in many instances. As practiced in Oklahoma, officials, while not hiring their own relatives, would trade appointments and hire the relative of some other public official in turn for the assurance that their relatives would be hired by another public official.²⁵ In the past state employees were expected to support their sponsors in any political activity which might demand active support. If the employee failed to support his patron, he would most likely lose his job. Whenever active politicking began, department heads could be assured that some of their employees would not be there but would be campaigning.²⁶ There have also been examples when state employees were assessed by their respective sponsors for financial support for political campaigns. The greatest assessments on state employees were under the administration of E.W. Marland when employees were assessed a substantial

²³Ibid., p. 30.

²⁴Ibid., pp. 49-50.

²⁵Ibid., pp. 51-52.

²⁶Ibid., p. 75.

portion of their salaries.²⁷

Restrictions on Political Activity under the Merit System

In order to correct this situation, strict limitations were placed upon state employees as to political activity. The so-called "Little Hatch Act" is more stringent in its regulation of political activity than is the Hatch Act itself.²⁸ The extent of permissible activities under this act include: (1) the right to vote; (2) the right to express one's political opinions; (3) the right to make voluntary contributions to any political party or for a political purpose.²⁹

But under the merit system, a state employee cannot be a member of any committee of a political party or a party officer. He cannot participate in precinct meetings nor can he participate in political campaigns, engage in any activity at the polls, or serve in any party nor be involved in the distribution of party materials. He cannot solicit or canvass for a party or candidate, ride in political caravans or wear a political badge, button, or sticker. Furthermore, he cannot participate in a move for initiative petitions.³⁰

Many of these restrictions have been elaborated upon by subsequent rulings of the Attorney General and the Personnel Board. In 1960, when Governor Edmondson was struggling to get control of the Democratic Party,

²⁷Ibid., p. 78.

²⁸Tulsa Daily World, July 21, 1959.

²⁹State Personnel Board, Partisan Political Activity Restricted by Law, December 15, 1961.

³⁰Ibid.

the Attorney General ruled that state employees under the merit system could not participate in precinct meetings. Again in 1960, the Attorney General ruled that state employees could not help with the Governor's initiative petitions.³² State employees were even warned against using bumper stickers or wearing buttons of any candidate as a result of the Tenkiller hearings in July, 1960, investigating alleged violations of the merit system law in the Democratic primary.³³

To a great degree, Oklahoma's state employees have been formally isolated from the influence of the politicians. They have been limited in their political conduct, and consequently, a state employee under the merit system would hardly be a political asset to any candidate.

The administrative theory upon which Oklahoma's merit system, like others, is based is that public administration is improved by isolating the public employee from political influence. The law itself speaks of "establishing conditions which will attract officers and employees of character and ability."³⁴ Supposedly, the efficiency of public service increases when public employees are made to satisfy specified qualifications and are assured job security commensurate with their individual competency. Arguments given for the adoption of the merit system have been based upon this principle

³¹Tulsa Daily World, February 12, 1960. The question arises as to whether or not the Attorney General was motivated by political interests. Although this is a possibility, the law itself explicitly mentions many of these restrictions.

³²The Tulsa Tribune, September 14, 1960.

³³State Personnel Board, Partisan Political Activity Restricted by Law, December 15, 1961.

³⁴Oklahoma Statutes, 1961, Title 74, Section 801, p. 1825.

of political isolation, the assumption being that public employment would improve if the employee were required to compete for a state position on the basis of his qualifications rather than his political affiliations.

Unique Features of the Merit System Law

One of the most striking features of Oklahoma's merit system in terms of its administration is the broad delegation of authority to the governor and the Personnel Board. The governor is empowered to place agencies under the merit system by executive order, and it is his power, within the restrictions of the law, to determine which agency will be placed under the merit system and at what date an agency will be included.³⁵ Although he may place an agency under the merit system without authorization by the legislature, he does not have the power to remove an agency from the merit system.³⁶

In addition, the governor appoints the Personnel Board without the approval of the legislature, and board members cannot be removed except for cause.³⁷ This board is given the responsibility of establishing personnel policy and administering this policy. If allowed to operate as defined by law, the board could administer the merit system with a relative degree of freedom from either the executive branch or the legislature. On the other hand, used indiscriminately, this authority to appoint the Personnel Board could be employed by the governor for his own political gain at the expense of the legislature.

³⁵Ibid., Title 74, Section 802, pp. 1825-1826.

³⁶Ibid.

³⁷Ibid., Title 74, Section 804, pp. 1826-1827.

Another feature of the merit system law is the basis for financing the program. The allocation of funds on a pro rata basis, although not unusual in terms of financing the administration of the merit system, later became the source of controversy in an effort to destroy the merit system. Furthermore, since each agency covered by the merit system must provide for its projected share of the costs of its administration in its own budget, little provision is given for any increase in administrative costs. If an unpredicted increase occurs in the costs of administration, the rigidity of such a financial scheme leaves little allowance for increasing available funds for this increased cost.

A fourth notable feature of the merit system is its stringent restriction upon political activity. Under the provisions of the law, public employees are politically impotent in that the practical extent of permissible political activity is voting. These restrictions have more meaning, though, when considered in light of the underlying theory of the merit system.

Initial Problems of the Merit System

According to Mr. W. L. Keating, the technical difficulties surrounding the inception of the merit system included the failure to make long-range plans prior to the adoption of the merit system law, lack of trained personnel to administer the law, the problem of finances, and most important, the limited time in which to prepare for the operation of the merit system.³⁸

In making the transition to merit employment, other states have made long-range plans prior to the effective date of the legislation providing for the merit system. For example, the Louisiana Legislature made provisions

³⁸Wallace L. Keating, Personnel Director, Personal Interview, Oklahoma City, Oklahoma, December 14, 1962.

for eighty-five persons to work for nine months preparing plans for the administration of its new merit system before it went into effect. This group outlined administrative policy, performed job analyses, and established classification and pay scales. All of this preparation was done prior to the date when the Louisiana merit system was to go into effect.³⁹

In contrast, there was no extensive preliminary organizational work done by either the legislature or the Personnel Board prior to the effective date of Oklahoma's merit system. The legislation that was passed was enabling legislation only, and a great deal of preparation was not done before the bill was passed.⁴⁰ Although the law creating the merit system went into effect on July 17, 1959, the Personnel Board was not appointed until July 31, 1959.⁴¹ Yet there were four agencies which were to be covered by the merit system at the earliest convenient date, and the Personnel Board was encouraged by Governor Edmondson to bring in these agencies as quickly as possible.⁴²

By September of 1959, the Personnel Board had made tentative plans for the consideration and adoption of its rules and dates when agencies were to be brought under the new merit system.⁴³ Although the first agencies

³⁹Ibid.

⁴⁰Jean Pazoureck, State Senator from El Reno, Oklahoma, Personal Interview, Oklahoma City, February 20, 1963.

⁴¹Tulsa Daily World, August 1, 1959.

⁴²Ibid.

⁴³The Daily Oklahoman, September 11, 1959. Governor Edmondson appointed an advisory board of personnel experts of private employers of the state to aid the Personnel Board in drawing up plans for the administration of the merit system. In addition, the administrators of the intra-department merit systems also rendered aid to the Personnel Board.

were to be placed under the merit system by November 11, 1959, the Personnel Director was not appointed by the Personnel Board until October 11, 1959.⁴⁴

The second problem confronting the Personnel Board in its effort to apply the merit system law was the lack of trained personnel to handle the day-by-day activities involved in the administration of the merit system.

According to Mr. Keating:

There were only fourteen persons in the Personnel Board to aid in this transition. We had 17,000 file cards to develop from scratch and only four typists to handle it. Although we had some persons familiar with clerical functions, we only had three classification technicians. As a result of this lack of personnel, the majority of the original job classifications were merely stop-gap attempts.⁴⁵

This problem of inadequate personnel within the Personnel Board still plagues the merit system. The Personnel Board now employs thirty persons who are responsible for the administration of a system covering some 13,000 state employees. The ratio is one employee in the Personnel Board for every 433 state employees. In Kansas, the ratio is one personnel employee for every 258 state employees.⁴⁶

Another of the problems which plagued the merit system at the beginning of its operations was the lack of finances. As explained earlier, the merit system is financed by participating agencies on a pro rata basis. Since no agency was covered by the merit system during the transition period, there

⁴⁴The Daily Oklahoman, October 10, 1959.

⁴⁵Wallace L. Keating, Personal Interview. On April 4, 1960, Governor Edmondson signed an executive order bringing the State Highway Department under the merit system. On the next day, the Personnel Director received a request for job classification for the 3,100 employees of the Highway Department, but at the same time, there were only five qualified technicians to classify these jobs.

⁴⁶Ibid.

were no funds available for the introduction of the merit system.⁴⁷ Furthermore, the legislature did not allocate money specifically to offset expenses incurred during this period of transition. As a consequence, all expenditures were to be paid out of the governor's contingency fund, which was a rather limited source of revenue available for this preparatory program.

When the Oklahoma Legislature adopted the merit system, it was confronted with the problem of the status of employees then working for the state. Should these political appointees be retained, or should they be tested for competency as would any beginning employee under the merit system?

Compromise was necessary from both a political viewpoint as well as an administrative viewpoint. The politician, losing many of the areas of patronage, attempted to protect as many of his friends on the public payroll as possible by assuring their retention under the new law.⁴⁸ Even if these persons could not actively support the legislator in an election, they were still, in many instances, obligated to him. From an administrative position, it would have been impractical to dismiss all state employees at one time and begin to train new employees who had passed competitive examinations. Such a state of affairs would have been so disruptive to the continuity in administration that it would have been impractical.

The final compromise provided that all state employees having two or more years of continuous tenure "were to be given status in the classified service without examination."⁴⁹ Any state employee having less than two

⁴⁷ Contrasted to Oklahoma's situation, the Illinois Legislature provided its merit system with \$250,000 to effect a state-wide classification program.

⁴⁸ The extent of patronage is considered on pages 16ff.

⁴⁹ Oklahoma Statutes, 1961, Title 74, Section 803, p. 1828.

years tenure was required to take an examination and pass it in compliance with the rules of the Personnel Board. If he failed the examination, the employee was to be discharged.⁵⁰

Undoubtedly, many employees who came under the merit system were unqualified for the positions which they held, but they were protected by the tenure clause. This seemingly is one of the inconveniences the supporters of the merit system had to expect. In time, this particular problem will be solved as these unqualified employees leave public employment. Meanwhile, these employees are also subject to the regulations for advancement, and although they were not required to take entrance examinations, they can only advance by competition and qualification.⁵¹

In 1961, the total number of state employees, both part-time and full-time, was 30,432.⁵² Of this number, 21,852 were classified as full-time employees.⁵³ Since many of these part-time employees are exempted from the provisions of the merit system, it will be assumed, for purposes of illustration that the figure of 21,852 is the best estimate of total full-time employees who might be affected by the merit system. Of this figure, 7,747 persons were employed by one of the four agencies comprising the state educational system.⁵⁴ These employees were also exempted from the jurisdiction of the merit system.⁵⁵ In these calculations, the total of non-education full-time

⁵⁰Ibid.

⁵¹Wallace L. Keating, Personal Interview.

⁵²U.S. Department of Commerce, State Distribution of Public Employment in 1961 (Washington: U.S. Government Printing Office, April 27, 1963), p. 9.

⁵³Ibid., p. 12.

⁵⁴Ibid., p. 16.

⁵⁵Oklahoma Statutes, 1961, Title 74, Section 803, p. 1826.

state employees is 14,105. By the end of 1961, 46 state agencies,⁵⁶ boards, and offices out of approximately 130 state administrative units were covered by the merit system.⁵⁷ The average number of state employees working for these government units during 1961 was 12,166 state employees.⁵⁸ Since 1961, the State Insurance Fund's 63 employees were included under the merit system by Governor George Nigh on January 14, 1963.⁵⁹

Modifications in the Patronage System

Prior to the adoption of the merit system, most state employees were appointed to their positions on the basis of patronage by either the governor's office, the elected official who headed various state agencies, or the legislators. In 1950, Mr. Walby estimated that the governor exercised direct control over 7,000 positions. If an individual desired one of these positions, he would secure a letter of endorsement from his senator or representative, or both, if possible. This letter of endorsement from his senator or representative would then be taken to the governor's patronage advisor. From his records of the patronage of each senator and representative, he would determine if the sponsor "deserved" patronage. If a legislator had not supported the governor's program, there was little chance that the job-seeker would be appointed.⁶⁰

⁵⁶Oklahoma Personnel Board, Annual Report, 1961.

⁵⁷Bureau of Government Research, The University of Oklahoma, Administrative Chart of Oklahoma State Government, 1962.

⁵⁸Oklahoma Personnel Board, Annual Report, 1961. This figure takes into consideration the adjustments made for the employees of elected officials whose employees were excluded from the merit system by legislation in the 1961 session.

⁵⁹Tulsa Daily World, January 26, 1963.

⁶⁰Walby, pp. 26-29.

There were also several types of appointments which were not required to pass through the governor's patronage advisor.⁶¹ Often, political appointees of the governor serving in an administrative capacity were allowed to pay off their own political debts on their own initiative by naming their own employees.⁶²

Before the merit system, the elected heads of various departments appointed their own employees without regard for any merit system. As a result of legislation, the employees of elected officials are still exempt from the merit system and are political appointments.

As to the extent of political patronage held by either senator or representative, this was dependent upon several factors. According to Representative Russell Ruby of Muskogee:

The political patronage held by a senator was dependent on the district in which a man lived and if there were a state institution located in the district. For instance, Gene Stipe has considered McAlester Prison his own private domain.

The greatest source of patronage was the Highway Department, and the senator's political plum is still the tag agent. Representatives have fewer patronage positions since the majority went to the senator, but for many years I had three men appointed to the Highway Department; and after the senator in my district had a falling out with certain people, I was able to appoint more persons.⁶³

Seemingly, the extent of patronage held by any legislator also depended, to some degree, on his own ability to obtain state jobs.

Under the provisions of the merit system, the majority of full-time state employees were placed beyond the bounds of political patronage.

⁶¹Ibid., p. 29.

⁶²Ibid.

⁶³Russell Ruby, state Representative from Muskogee, Oklahoma, Personal Interview, Stillwater, April 3, 1963.

Previously, these employees would have been appointed on the basis of patronage.⁶³ Nevertheless, political patronage still exists. It is estimated that Governor Henry Bellmon had more than 300 possible positions to which he could appoint individuals. Although many of his political appointments to the some 100 agencies required senatorial confirmation, others did not. The "chief prize" is the state Highway Commission, which is comprised of eight members. It is this agency which is responsible for hiring the highway director and it decides where and how Oklahoma Highways will be built.⁶⁴

In addition, senators still have the power to recommend the person in their respective districts to serve as tag agent, traditionally one of the richest patronage "plums" in the state,⁶⁵ and the county election board secretaries.⁶⁶

There is also a strong indication that there have been attempts by certain legislators to take an active interest in the personnel matters of various state institutions. These two recent incidents provide good examples. In one case Robert E. Raines lost his position as warden of McAlester Prison.⁶⁷ In the case of Robert Raines, it had long been known that he refused to allow

⁶³It is interesting to note that legislators are still involved in the employment process. Although they, of course, do not have much of the previous political patronage, they do refer many individuals to the Personnel Board. W.L. Keating, in a committee meeting of the Special Committee on Personnel Administration, stated that legislators were the best source of employees.

⁶⁴The Tulsa Tribune, November 7, 1962.

⁶⁵The Tulsa Tribune, February 6, 1963.

⁶⁶The Daily Oklahoman, March 19, 1963.

⁶⁷The Daily Oklahoman, January 25, 1963.

Senator Gene Stipe of McAlester to interfere with the administration of the state penitentiary.⁶⁸ Traditionally, the senator in Pittsburg County has had "a great deal to say about employment of personnel at the penitentiary."⁶⁹ When Raines' name came up for re-confirmation by the Senate, Stipe refused to move his confirmation.⁷⁰ The resignation of Dr. Wayne Boyd as hospital superintendent at Eastern State Hospital has been interpreted as the result of an attempt by Representative Harold Morgan of Vinita to interfere in the hospital's administration.⁷¹ Both of these examples, while not specific or conclusive in terms of present political patronage by legislators, indicate the fact that some legislators have a continued interest in the personnel of agencies covered by the merit system.

Administration

The work organization within the Personnel Board is divided into four primary units. These units are: a Recruiting and Interviewing Unit; an Examination and Process Unit; a Classification and Pay Unit; and Office Service and Records.⁷² These units correspond to the major functions of the Personnel Board.

Since 1961, the recruitment program of the merit system has been expanded. The Recruiting and Interviewing Unit serves to "interview and

⁶⁸Russell Ruby, Personal Interview.

⁶⁹The Daily Oklahoman, January 25, 1963.

⁷⁰Ibid.

⁷¹The Tulsa Tribune, March 14, 1963.

⁷²Oklahoma Personnel Board, Annual Report, 1961.

admit to examination qualified persons for announced state jobs."⁷³ By dispensing information through personal interviews and through the mail, this unit seeks to educate interested persons concerning job opportunities and procedure of seeking employment.⁷⁴

In conjunction with the recruiting service, this unit maintains contact with professional groups as a source for recruitment of highly specialized personnel and it sends representatives to state high schools, colleges and universities.⁷⁵ The Recruiting Unit can be the most effective means of acquainting qualified persons with the opportunities of state employment, and with continued specialization, this unit will work towards the end of inducing qualified specialists into public employment.

A second function of the Personnel Board is that of developing the tests to be given to potential employees and for administering and scoring such examinations. Based upon the job classifications provided by the Classification Unit, the Examination Unit draws up examinations which will test for qualifications specified by job classifications by examinations, performance tests, evaluations of training and experience, oral interviews, and technical orals.⁷⁶ The examinations are administered and evaluated by this unit. In 1961, it tested 6,552 applicants, of whom 5,778 passed and were placed upon the register.⁷⁷

⁷³Ibid. In 1961, 14,619 persons were interviewed at the merit system office by this unit. From this total number, 2,520 appointments were made after fulfillment of all requirements for the respective position.

⁷⁴Ibid.

⁷⁵Ibid. Six colleges and universities were visited during the period of January 1-December 31, 1961.

⁷⁶Ibid.

⁷⁷Ibid. The 1961 legislature passed a bill which outlined detailed instructions for the administration of examinations, placement of names on the register, and appointments to vacant positions.

A third responsibility invested upon the merit system involves the classification of jobs. When the merit system went into effect, 2,100 job classifications were made. These "stop-gap" classifications were made under the pressure of the efforts to include as many agencies under the merit system as quickly as possible. Many of these classifications were made by agency heads and supervisors without the technical advice and experience of the classification technicians. In order to correct this situation, the Classification and Pay Unit is conducting a reclassification program. Presently there are 1,094 classifications, and eventually this should be reduced to some 800 classifications.⁷⁸ In order to develop a uniform pay standard, the Personnel Board has been required to conduct such classifications.⁷⁹

The absence of an extensive classification scale resulted in non-uniform pay scales throughout the state. There was a large discrepancy in pay standards from state agency to agency. A typist in the Welfare Department received \$130.00 per month while a typist doing the same work in the Employment Security Commission received \$155.00 per month.⁸⁰ Usually one's salary would be determined by the agency head, and his ability to obtain raises for his employees was dependent upon his political manipulations or ability to obtain increases in his budget so as to get salary increases.⁸¹

⁷⁸Wallace L. Keating, Personal Interview.

⁷⁹In 1961, the legislature abolished the State Salary Administration and placed its functions within the jurisdiction of the Personnel Board. This included the creation of new job classifications and grades, the re-classifying of any existing job, and conducting periodic studies of the grading of all jobs.

⁸⁰Walby, p. 59.

⁸¹Wallace L. Keating, Personal Interview. This condition of non-uniform pay standards is conducive to a loss of morale and incentive.

One purpose of the present program of job classifications is to remedy this situation and establish a pay scale corresponding to the job classifications.

Not only has there been a question of discrepancy in salaries from agency to agency, but on the whole, salaries in Oklahoma's public employment have been extremely low.⁸² In 1948, the average monthly earnings for all state employees, including temporary and part-time workers but excluding teachers, was \$158.00 per month while the national average of monthly wages paid to state and local employees in the United States was \$201.00 per month.⁸³

This condition still exists in the state. In 1960, the average monthly earnings of all government full-time employees in Oklahoma was \$281.00 per month while the national average was \$368.00 per month. Oklahoma ranked as the fifth lowest state in average monthly earnings of government employees.⁸⁴

As a consequence of these low salaries and pay scales, the state agencies have been unable to attract competent employees. To a large extent, state employment has been regarded as a last resort or as an interlude until a better opportunity in employment is available.⁸⁵ Consequently, this factor

⁸²At the present time, an elderly couple on welfare can draw as much as \$2,700 a year which is \$300.00 above the salary paid to more than 2,900 full-time state employees.

⁸³Walby, p. 39. When a patronage system is in effect, there is a tendency to keep salaries of employees at a low level so as many persons as possible can be employed. This seems to be true in Oklahoma where there are more state employees per one thousand population than in any of the surrounding states.

⁸⁴Statistical Abstract of the United States, 1961 (Washington: U.S. Government Printing Office, 1961), p. 427. In a real sense these statistics do not describe what state employees earn who are covered by the merit system. For no better records, these figures were used in order to illustrate the fact that Oklahoma's state employees are paid less in comparison to the national averages. The four states with lower salary averages were: Mississippi, with \$243.00 per month; Arkansas, \$254.00 per month; West Virginia, \$257.00 per month; and Georgia, \$266.00 per month.

⁸⁵Walby, p. 69.

is a determinant in the high turnover of state employees.⁸⁶

There have been several attempts to raise the minimum salaries of state employees. In 1961, Representative A. R. Larason of Ellis County introduced a bill which would have fixed the minimum salary at \$200.00 per month for a forty-hour work week. Although the measure passed in the House, it died in a Senate committee.⁸⁷

By means of job classifications, it is hoped that the pay schedules will gradually be up-graded; and at the same time, discrepancies in salaries from agency to agency will be eliminated.

Although the Personnel Board has not been empowered with the responsibility of conducting complete audits of agencies participating in the merit system, it does make monthly audits of all payrolls. Each month, the Personnel Board receives a payroll voucher from each agency. These vouchers are checked with the records of the Personnel Board which contain all records of an employee's classification and pay schedule. Whenever the figures of the vouchers do not correspond with the records of the Personnel Board, the Personnel Director is authorized to withhold an entire payroll in question.⁸⁸

In addition to these payroll audits, the Personnel Board serves to enforce regulations for sick leaves, absences, time off, etc. Prior to the merit system, it was widely known that some state employees were not

⁸⁶Oklahoma Personnel Board, Annual Report, 1961. The salary schedule for the first step of grade one begins with \$160.00 per month or \$1,920.00 for a year. The majority of state employees are in the lower grades, all of which have low salaries (State Personnel Board, Pay Plan: Classified Service).

⁸⁷Journal of the House of Representatives of the Twenty-Eighth Legislature of the State of Oklahoma, 1961, p. 58.

⁸⁸Oklahoma Statutes, 1961, Title 74, Section 810, pp. 1828-1829.

rendering a full week's work especially during campaigns; and no records were kept of time-off, absences, or sick leave or was punctuality stressed.⁸⁹ These conditions were costly to the state in terms of work hours. At present, each agency head is required to keep records concerning an employee's punctuality and attendance. Periodic checks are made on these reports. Yet, even with these requirements, an agency head can falsify records; but in the process, he runs the risk of being caught and penalized.⁹⁰

⁸⁹Walby, pp. 65-67.

⁹⁰Wallace L. Keating, Personal Interview.

CHAPTER III

THE MERIT SYSTEM'S EFFECT ON POLITICS

Although one of the primary purposes behind the adoption of the merit system was the improvement of government administration, it has, if not deliberately at least, affected the traditional or customary political arrangements in the state. The best indication of this alteration or threatened alteration of these political "institutions" is the opposition of many public officials to the new merit system.

The opposition to the merit system has come from three vaguely defined groups. The first and perhaps the most easily defined opposition group is that of several state legislators, particularly those in the Senate. The fact that the Senate has opposed the merit system can be attributed partially to the loss of patronage by the senators. Senators have traditionally handled patronage in their districts giving the House members only a few minor positions. This may be why the Senate opposes the merit system so strongly while a majority of the House seems to be in favor of it.

Yet at the same time, there are several representatives who feel that the extent of patronage that one held was not determined by whether one was a representative or senator, but ". . . depended upon one's own ability to obtain political plums."¹ Statements of this nature tend to detract from any effort to give a clear-cut definition of the legislative opposition on the basis of the loss of patronage, but for the purposes of

¹ John Massey, State Representative from Durant, Oklahoma, Personal Interview, Oklahoma City, January 22, 1963.

simplicity and since the strongest opposition to the merit system comes from the Senate, the legislative opposition will be considered in terms of the Senate since it was potentially more damaging than that of the House.

The second and somewhat less definable opposition group was composed of the elected officials of various state administrative agencies. This group can no longer be considered as constituting an active threat to the merit system since the employees in state agencies headed by elected officials were exempted from the classified service in 1961, thus removing the basis for this group's opposition.

The third center of opposition lies within the bounds of the Democratic Party. Although the Democratic Party has not officially opposed the merit system, various members, particularly the legislators, have voiced their opposition to the merit system in terms of the loss of party support by state employees. Furthermore, not all Democrats oppose the merit system, but those opposing the merit system speak in terms of the effect the merit system has exerted on the party.

Legislative Opposition to the Merit System

The legislative opposition to the merit system centers upon a hard-core group within the Senate, and since the summer of 1960, the outspoken leader of this opposition group has been Senator Ray Fine of Gore.² Ostensibly, or at least the newspapers have reported it as such, one reason

²Senator Fine represents the twenty-eighth senatorial district which is comprised of the three eastern counties of Adair, Cherokee and Sequoyah. He has served in the Senate since the nineteenth legislative session, and served as President pro tempore of the Senate during the twenty-fifth session.

for senatorial opposition to the merit system was the result of political reaction to gubernatorial pressures on the legislature.³ Many of the state's senators, particularly Ray Fine, have continually charged former Governor J. Howard Edmondson with pressure tactics in the passage of the merit system act. Senators often cite the fact that the final merit system measure was passed by the Senate only on the last day of the 27th session, and the only reason it passed then was because of patronage charges being made against the Senate by Edmondson.⁴ Perhaps this may serve as a partial explanation, but the roots of this opposition are to be found elsewhere.

When the Senate Democratic caucus met in July, 1960, it was Senator Ray Fine who outlined part of the legislative strategy for the 1961 session. He stated that one of the major objectives was to "throw out the present merit plan, adopting a job security law (which) was not administered by Governor Edmondson as in the present plan."⁵ Continuing, Mr. Fine stated that he was not "opposed to a good merit system but the present merit system law would not work as it gave the governor too much power."⁶ In addition, the Senator charged that the merit system's restrictions upon political activity of state personnel had been violated by employees of the Highway and Agriculture Departments and the Planning and Resources Board. These charges developed from "accusations by Senator Fine that public employees working for agencies under the merit system had been used by Howard Fink of Vian in the run-off election of July 5, 1960, for state senator."⁷

³Tulsa Daily World, March 5, 1961.

⁴Ibid.

⁵The Tulsa Tribune, July 28, 1960.

⁶The Daily Oklahoman, July 28, 1960.

⁷The Tulsa Tribune, July 30, 1960.

The real significance of this incident, at least to Ray Fine, was the fact that Howard Fink was supported by friends of Governor Edmondson. Seemingly, the fact that state employees under "the so-called Edmondson merit system" were involved in the campaign against Fine was interpreted as meaning the Governor had allowed or even encouraged political activity by state employees. A similar charge was lodged by Bill Doenges of Bartlesville who lost to the Governor's brother, Representative Ed Edmondson of Muskogee, the Democratic nomination for the second district congressional seat.⁸

As a result of these alleged charges, the Personnel Board conducted a two-day investigation on July 28-29, 1960 at Tenkiller Lake. Many of the charges were sustained and four state employees were fired for their political activity.⁹ Commenting on this later, Senator Fine said, "They fired only one (sic) person who was involved in the violations, but a year later Jack Cornelius was ordered to put him back on the Department of Agriculture and to give him back pay for the time lost."¹⁰ Mr. Fine interpreted the proceedings as a continued effort to discriminate against him by the Edmondson administration. Continually using this as proof of the failure of the merit system to eliminate politics from public employment, Senator Fine attempts to justify his opposition on this basis.

The Democratic caucus appointed a committee of senators to investigate the proceedings of the Tenkiller Lake hearings. Amusingly enough, the committee's report criticized the proceedings of the investigation as

⁸Tulsa Daily World, July 19, 1960.

⁹Tulsa Daily World, August 27, 1960

¹⁰Ray Fine, Personal Interview.

simulating a courtroom atmosphere. While Senator Fine was disturbed by the fact that more employees were not discharged, his colleagues were disturbed by the fact that the investigators had not used more prudence in the hearings. In an indirect manner, many of the senators who opposed the merit system were upholding some of the principles upon which merit employment is based.¹¹

One political observer commented that the real underlying reason for Fine's vehement opposition to the merit system is due to the fact that a "number of employees sponsored by Fine and other administration foes were replaced before the system went into effect."¹² In July of 1959, Governor Edmondson removed several employees from public employment. Among these were a former secretary of Senator Fine and at least ten other state workers whom he had sponsored.¹³ When J. Leland Gourley, the governor's administrative assistant was queried on this action, he stated that the "orders came from the Governor's office. People who get their jobs on politics rather than through ability can't expect to hold them."¹⁴

Another reason for Fine's position is the fact that "he and other senators like the patronage system under which senators and other state officials can get people on the payroll."¹⁵ Outside of the fact that the senators want to have a voice in personnel matters, the senators realize

¹¹Tulsa Daily World, September 11, 1960.

¹²Ibid.

¹³The Daily Oklahoman, July 28, 1959.

¹⁴The Daily Oklahoman, July 30, 1959. The political ax also fell on appointments of Raymond Gary.

¹⁵Tulsa Daily World, March 5, 1961.

that the political employee is expected to show gratitude for his job by helping the sponsoring senator retain his seat.

In terms of political assets and as an illustration of the potential strength of patronage, experienced party men calculate that a well-placed appointment in some urban areas of Pennsylvania should net the party between six and eight votes.¹⁶ Imputing this principle to Oklahoma's patronage system, similar estimates could also be made in terms of the value of placing one employee on the state payroll. But since Oklahoma has traditionally been a one-party state, the state employee was considered in terms of his value to the individual politician rather than the party.

In reply to the question as to why he opposed the merit system, Senator Fine stated:

I am for a good merit system, but not the present system. The governor has the power to appoint the Personnel Board and control of the selection of the man who is Personnel Director. The Board should not be under the control of the governor. Furthermore, the original bill authorized the governor by executive order to place any department under the merit system if and when he desired. He would stack an agency with his own active supporters prior to the day when that agency would be placed under the merit system, thus freezing in some of his own employees. For instance, take the State Insurance Fund. It has doubled its payroll over the past few years, but it has no additional claims. It became the dumping ground for the faithful of the administration. Then George Nigh placed them under the merit system.¹⁷

Asked if he felt that Governor Edmondson had used the merit system as a political tool against him, Mr. Fine answered:

Many state employees who were fired had been working for the state for over twenty-five years. Some men who worked for the engineer's office in my district, even men whom I didn't appoint, were fired or transferred to another county. The Governor was trying to

¹⁶Frank J. Sorauf, p. 29.

¹⁷Ray Fine, Personal Interview.

get back at me. People whom the Governor wanted, he appointed, but he fired persons who had been working for the state for twenty-five years and who were now in their middle years of life.¹⁸

Aside from politics as such, Senator Fine indicated that he objected to the inequitable distribution of salaries and wages. He felt that the discrimination in salaries from one agency to another was worse now than it has ever been.¹⁹

Mr. Fine went on to say that:

Governor Edmondson himself did not believe in the merit system. In a committee meeting in 1961 in which he was present, we made a recommendation that all employees of the Crime Bureau should have the same qualifications of the Highway Patrol. He got up and said, 'If that takes place, every man which I put on must be dismissed.' I answered, 'That's right, Governor.'²⁰

Senator Joe Baily Cobb²¹ is another opponent of the merit system. When asked for a general evaluation of the merit system, Mr. Cobb remarked:

The merit system is not working at all. It has been a political football. It has been used to protect its friends. The merit system has not improved personnel. We should do away with it in that it costs \$280,000.00 (sic) to operate, and this is too much.²²

Asked if he felt that political coercion was used in the legislative struggle for passage of the merit system, Senator Cobb answered, "Pressure was used to get the bill passed. For instance, the Governor promised certain things in return for one's vote."²³

¹⁸Ibid.

¹⁹Ibid.

²⁰Ibid.

²¹Senator Cobb is from the thirty-sixth senatorial district. He has served in the Senate during the nineteenth through the twenty-fourth sessions and again in the twenty-seventh through the twenty-ninth sessions. The district which he represents is comprised of Murray and Johnston counties.

²²Joe Bailey Cobb, state Senator from Tishomingo, Oklahoma, Personal Interview, Oklahoma City, February 20, 1963.

²³Ibid.

Mr. Cobb was the only senator who felt that the merit system was discriminating against the rural areas. "The merit system favors the metropolitan areas," he said. "The cities have gotten all the better employment and rural areas get none. Why, since its passage, I haven't gotten a single employee from my district appointed to one of the better jobs."²⁴

Another of the legislative opponents of the merit system is Senator Ed Berrong.²⁵ In response to a general question concerning his opinion on the merit system, Senator Berrong said:

This thing of senators having a great deal of patronage is greatly over-exaggerated. I don't think I have one employee which you could consider as patronage. I don't fool with patronage, and I don't want it. A few senators may have patronage and make use of it. I voted for the merit system, but I questioned whether the governor was in good faith. Now I am sorry that I voted for it. Because now the governor's friends get the merit, and the others get discriminated against.²⁶

Asked if he had any particular objections to the administration of the merit system, Mr. Berrong indicated that there was inequitable distribution of incomes. "Similar or like jobs are not receiving similar salaries," he remarked. "Clerical help in the Safety Department gets 20-30% less than those in the State Insurance Fund."²⁷

Senator Leon B. Field²⁸ in a brief remark concerning the merit system stated that:

²⁴Ibid.

²⁵Mr. Berrong has represented the sixth senatorial district of Custer, Kiowa and Washita counties since the twenty-seventh legislative session.

²⁶Ed Berrong, state Senator from Weatherford, Oklahoma, Personal Interview, Oklahoma City, February 19, 1961.

²⁷Ibid.

²⁸Senator Field is from the first senatorial district comprised of Beaver, Cimarron, Harper, and Texas counties. He has served in the legislature since the twenty-third session.

One of the ways to get around the merit system is in the job classifications. If I were a department head and I wanted to get you hired, all I would have to do is make the job specification so that it would fit you; and no other persons could possibly qualify.²⁹

Senator Walt Allen, also associated with the opposition group in the Senate, commented on what he considered the objectionable weaknesses in the merit system.³⁰ He said, "It was a poor bill. It gave too much authority to the governor in that he appointed the members of the board. I felt that they should be elected officials because they make policy and hear appeals"³¹

This objection to the merit system on the basis that the governor had extensive influence over the Personnel Board and in turn, the administration of the merit system, was one of the most recurrent objections to it. It was alleged in both personal interviews and in the newspapers that Governor Edmondson had a voice in the selection of the Personnel Director as well as the administration of the merit system. When queried about such statements, Mr. Keating answered, "There has been absolutely no interference on the part of Governor Edmondson. As a matter of fact, I did not meet the Governor until some five months after my appointment."³²

Senator Gene Stipe³³ asserted that the merit system "hurt the Democrats

²⁹Leon B. Field, state Senator from Texhoma, Oklahoma, Personal Interview, Oklahoma City, February 19, 1963.

³⁰Senator Allen is from the fifteenth senatorial district comprised of Caddo and Grady Counties and has served in the Senate since the twenty-third legislative session.

³¹Walt Allen, state Senator from Chickasha, Oklahoma, Personal Interview, Oklahoma City, February 19, 1963.

³²Wallace L. Keating, Personal Interview.

³³Senator Stipe has served in the Senate since the twenty-sixth session. He serves the twenty-fifth senatorial district which is comprised of Pittsburg County.

in the recent elections."³⁴ Because of the sense of job security, state employees lose the desire to carry out their functions. These state employees "used to provide the core of support for the party. If they didn't get out to work, they were looked upon with disfavor."³⁵

In addition to his opinion that Governor Edmondson used the merit system for his own political purposes, including patronage, Mr. Stipe stated that "the merit system is not basically good government for no one has the responsibility for the system."³⁶ His question was, "How do you place responsibility upon a system?"³⁷

Asked if there were specific ways by which one could get around the merit system, Mr. Stipe answered:

The ways by which the law is circumvented are rather numerous. For one thing, a department head can make a temporary appointment without the individual taking an examination prior to his being hired. Secondly, discrimination can be made through the oral examination. Even if a person has a high score on his written examinations, he can fail the oral and not get a job. Thirdly, the employee can be transferred all around the state or given a distasteful assignment and he will quit. Finally, the employee can be fired for inattention or incompetence.³⁸

Representative Wiley Sparkman of Grove was another of the legislators who argued that state employees under the merit system are not responsible to the people. He stated:

The merit system is lukewarm to public responses. It doesn't improve a damn thing. What it has done is to protect a few 'Jesses' who don't have to answer to any one. If you live by politics, you will die by politics. People who work should also have the vote of

³⁴Gene Stipe, state Senator from McAlester, Oklahoma, Personal Interview, Oklahoma City, February 20, 1963.

³⁵Ibid.

³⁶Ibid.

³⁷Ibid.

³⁸Ibid.

the people, and the political appointee can be kept in line.³⁹

One of the most recurrent illustrations of political influence upon the merit system was that of the State Insurance Fund. At the time of these interviews, these senators who were solicited for their opinions on the merit system were also conducting an investigation of this agency. It was charged that Governor Edmondson had stacked the agency with his own men, and then George Nigh, Governor of Oklahoma for nine days, froze them under the merit system.

Throughout these interviews, it was noticed that the legislators objected to the merit system because of particular policies in its administration. Pursuing this further, it was found that many of these objectionable features of the merit system had been included in a statute of the 1961 legislature which amended the merit system law. It was as though the opponents of the merit system passed amendments to the merit system which they knew would be objectionable, and then criticized the amended law to show that it was unworkable. This fact suggests that the opponents of the merit system were less concerned with the improvement of public administration than they were with the political implications of the merit system in the modification of patronage as a source of political power.

Opposition from Elected Administrative Officials

When the original merit system law was enacted, there were no limitations upon the governor's power to place the employees of elected officials under the merit system. In November, 1959, the Personnel Board

³⁹Wiley Sparkman, state Representative from Grove, Oklahoma, Personal Interview, Oklahoma City, February 20, 1963.

announced its plans for the gradual extension of the merit system to include the employees of these elected officials. At the time of the announcement, plans called for employees of the Secretary of State to come under the merit system during November, 1959, and the employees of the Insurance Commission, the Examiner and Inspector's Office, and the State Treasurer's Office to be included in the spring of 1960.⁴⁰

Several of these elected officials whose offices were to be affected by these plans immediately responded to the announcement by challenging the merit system law in terms of its constitutionality. Mr. Joe B. Hunt, the State Insurance Commissioner, was the center of this opposition by elected administrative officials. Although the Oklahoma Supreme Court upheld the power of the governor to include these agencies under the merit system, subsequent legislation which was supported by these officials was enacted whereby their agencies were to be included in the non-classified service and not subjected to merit system laws.⁴¹

One of Mr. Hunt's objections to the merit system was the fact that as an elected official who "had gotten his mandate from the people and owed his position to their choice, he should not have to employ his personnel on the basis of the merit system."⁴² Mr. Hunt stated:

I am responsible for my office, and since I am, I should have the right to appoint persons who will help me out. When I appoint someone, he becomes responsible to me. It builds up a family spirit in my agency, and I get more work out of my employees than any other agency around here.⁴³

⁴⁰The Daily Oklahoman, November 20, 1959.

⁴¹Oklahoma Statutes, 1961, Title 74, Section 803, p. 1826.

⁴²Joe B. Hunt, State Insurance Commissioner, Personal Interview, Oklahoma City, February 19, 1963.

⁴³Ibid.

Furthermore, it was Mr. Hunt's opinion that he was "better qualified than any merit system to hire...employees."⁴⁴ Because of the nature of the work done by the Insurance Commission, he said:

I can't really see how the merit system could test a person to see if he is qualified because my employees do a little of everything. Besides that, once you get a person under the merit system it is hard to get rid of him. When that happens here, I get rid of him as I choose.⁴⁵

John Rogers, the State Examiner and Inspector, was the only elected official interviewed whose employees had come under the merit system. Consequently, his objections to the merit system were somewhat different than those of Mr. Hunt's. Asked if the merit system had improved the caliber of his employees, Mr. Rogers answered:

I feel that I can hire better than a big setup. I found that my clerical help which was hired before the merit system was better than when employees were sent to me by the Personnel Board. I can test a person for his qualifications better for this type of work whereas the Personnel Board does not know my needs.⁴⁶

Mr. Rogers objected also to the salary schedules established by the merit system. Because of the low salaries, he stated that he could not get adequate qualified personnel. "But left on my own," he said, "I could get certain fringe benefits which would make my employees' salaries rather adequate."⁴⁷

The basis for opposition to the merit system by elected administrative heads differed from that of the legislative opposition group. For while

⁴⁴Ibid.

⁴⁵Ibid.

⁴⁶John Rogers, State Examiner and Inspector, Personal Interview, Oklahoma City, December 14, 1963.

⁴⁷Ibid.

the legislators seemed to be less concerned with the actual administrative problems arising under the merit system and more concerned with the influence the merit system had upon politics, these elected officials spoke in terms of both the political implications of the merit system and the influence it had upon the administration of their agencies.

Mr. Rogers inferred that the merit system hindered him in the administration of his office. He felt that persons sent to him from the Personnel Board were no better than persons whom he could hire on his own, and restrictions were imposed upon him by the Personnel Board with regards to salaries, dismissal of employees, and limited fringe benefits under the merit system. It was his assertion that the merit system kept him from hiring his own employees and thus it limited his own personal control over the administration of his office.⁴⁸

Although the employees of the Insurance Commission were never covered by the merit system, it was Joe B. Hunt's contention that the merit system would hinder him in his administration by requiring him to rely upon the Personnel Board. He felt that employees sent to him by the Personnel Board would not meet the requirements which he felt were necessary, but he would be forced to take them since they were recommended on the basis of qualifying examinations. In addition, the restrictions upon the administrative head with regards to dismissing an employee were held by Mr. Hunt as a hindrance to effective administration since he could not fire an inefficient employee (sic) without going through a complicated procedure.⁴⁹

While alluding to these administrative problems arising under the

⁴⁸Ibid.

⁴⁹Joe B. Hunt, Personal Interview.

merit system, both of these elected administrators indicated that they would lose a source of active political support if their employees were restricted by the regulations on political activity by the merit system law. At the same time, it appeared that the objections to the merit system on questions of administration were being used to rationalize the objections based upon this loss of political support.

Party Opposition

The third opposition group is vaguely defined in terms of the Democratic Party. In using this description though, the problem arises as to which group within the party is under consideration. For when speaking of the Democratic Party in Oklahoma, it must be pointed out explicitly which faction of the Democratic Party is under consideration. Without extensive definition, it would be rather difficult to pinpoint the particular political faction within the party which opposes the merit system, but a term used widely to describe a reactionary element within the Democratic Party is the "Old Guard." Consequently, when speaking of the Democratic Party, it will be in terms of individuals in the party who are usually associated with the "Old Guard" and who have opposed the merit system on the grounds that it has altered the basis of power of the Democratic Party by the elimination of 13,000 state employees from active participation in politics.

The only official of the Democratic Party who was interviewed was Don Hamilton, Oklahoma City lawyer and President of the Young Democrats. Asked what his objections to the merit system were based upon from a party viewpoint, he said:

When the merit system was introduced, we began to feel the loss of the support of state personnel. We felt the financial loss and the loss of active political support. It was a good excuse for these persons to lay down. Yet, the state employees are the best informed

persons but are not able to aid the party. You are depriving these persons of their constitutional rights and depriving the state of well informed persons who would play an active role in the party function.⁵⁰

Mr. Hamilton contended that the political restrictions upon state employees were partially responsible for the election of a Republican in the 1962 gubernatorial race. His argument was that these state employees, almost entirely Democrats, were the hard-core group of campaign workers for the Democratic Party. Their loss to political inactivity was considered as a loss to the Democratic campaign.⁵¹

Many of the Democratic legislators concurred with Mr. Hamilton's observation concerning the defeat of a Democrat for governor in 1962. Senators Fine and Stipe particularly made a point of objecting to the merit system on the grounds that it deprived the Democratic Party of party workers who felt an obligation to work for the party.

Incidentally, former Governor Edmondson also stated that, to some degree, the merit system hurt the Democratic Party. He remarked that in previous times state employees had been required to attend party testimonial and fund-raising dinners. The last dinner which state employees were required to attend was just before the adoption of the merit system. At that dinner, state employees alone were assessed for \$85,000. Yet, he added that he felt it unfair to assess state employees \$25.00 or \$50.00 for the party when they were only making \$180.00 a month.⁵²

Other Democrats have indicated that the exclusion of state employees

⁵⁰Don Hamilton, Oklahoma City lawyer and President of Young Democrats, Personal Interview, Oklahoma City, January 22, 1963.

⁵¹Ibid.

⁵²J. Howard Edmondson, U.S. Senator from Oklahoma, Personal Interview, Stillwater, Oklahoma, April 8, 1963.

from political activity has not hurt the Democratic Party sufficiently so as to lend itself to explaining the Democrats' loss in 1962. Senator Jean Pazoureck, a supporter of the merit system, stated, "Some persons accredited the election of a Republican governor to the merit system, but I don't think so. I think this is an attempt to rationalize off the failure of the party to operate properly."⁵³ Perhaps Mr. Pazoureck was directing his comments at the split in the Democratic Party among the supporters of J. Howard Edmondson, Raymond Gary, and W. P. Atkinson.

Opposition Evaluated

The majority of objections voiced by the opponents of the merit system were orientated toward political factors surrounding the merit system rather than the actual administration of the merit system. The weight of the arguments against the merit system was directed toward the control the governor possesses over the Personnel Board, and in turn, the administration of the merit system. With this control of the Personnel Board and the power to include agencies under the merit system by executive order at his own discretion, it was asserted that the governor is in a position to influence personnel policy and use state employees against particular legislators or administrative heads for his own political ends. For instance, he could fire supporters of his political opponents, replace them with his own, and then freeze the agency under the merit system. In this manner, the governor could build his own political machine at the expense of his political opponents and then use the merit system to protect

⁵³Jean Pazoureck, Personal Interview.

his own supporters.

Evidence indicates that there is an element of plausibility in this objection to the merit system. Individual examples of dismissal of or discrimination against employees sponsored by political opponents of Governor Edmondson, the attempt by Governor Edmondson to use state employees in his initiative petition campaigns, and the issue surrounding the State Insurance Fund can be interpreted to substantiate, at least partially, this criticism.

At the same time, though, this criticism of the merit system must be kept in perspective. Although evidence recounted indicates that Governor Edmondson used the merit system for his own political advantage, the merit system also modified the influences of Governor Edmondson as well as future governors in personnel issues in public administration. Because more employees will be included under the merit system, the incumbent governor will have little direct authority over these employees or the Personnel Board.

One of the most striking features of the opposition groups is that they are not against competent administration, but they are against the present merit system as a means of effecting competent administration. Although some objections were directed at the actual administration of the merit system, these objections, upon closer consideration, seem to indicate that very few of the merit system's opponents know what competent administration is or how to administer a personnel program. So often the criticisms directed at the administration of the merit system were devoid of any knowledgable understanding of the theory of personnel administration so that they are almost discredited as legitimate objections.⁵⁴

⁵⁴See above, p. 9.

Of those objections directed toward the administration of the merit system, the most serious are: (1) there is a wide discrepancy in salaries from agency to agency and (2) the reclassification of positions is being used to discriminate against employees.

Salary discrepancies still exist in state employment, but they existed prior to the adoption of the merit system. These salary differences existed when the various state agencies were included in the merit system, and the only way that these salary differences can be corrected is on the basis of a uniform salary schedule based upon uniform job classifications. The Personnel Board is presently involved in a program of effecting a system-wide salary schedule to bring salary uniformity.

The criticism directed at the reclassification program in terms of its being used to discriminate against employees is, perhaps, the more serious of these two criticisms. Not only opponents of the merit system, but even its supporters have questioned this program of reclassification. Mr. Frank Ogden, one of the original supporters of the merit system, wrote:

Personally I see no defects in the present merit system other than one recently adopted by the board administering the system, by which the board interpreted the law to mean something it does not mean and which all of those connected with the act fully knew it did not mean; and this is with reference to the ability, recognized by the board, of the head of the department to reclassify a position until the individual had been reclassified and then to reclassify the position, and in this manner affecting a demotion at the will of the department head.⁵⁵

The most plausible explanation to Mr. Ogden's criticism is that when many of the agencies came under the merit system, the original job classifications were done hurriedly so as to bring these agencies under the merit system as quickly as possible. At one time there were some 2,100

⁵⁵Letter from Frank Ogden, lawyer and former state Representative, Guymon, Oklahoma, February 12, 1960.

job classifications and, in order to establish a more uniform classification schedule, the Personnel Board has been conducting a system-wide program of job audits so as to effect this uniform schedule. The actual job classification is done by the department head and a personnel technician from the Personnel Board. Using job analyses from both the employee and the supervisor, the department head works with the personnel technician in establishing the criteria for a particular job classification. Although this policy might be interpreted as discrimination against an employee, it is generally followed by other merit systems.

CHAPTER IV

THE SIGNIFICANCE OF THE RETENTION OF THE MERIT SYSTEM

The opponents of the merit system have conducted their campaign to either destroy or weaken the merit system on three fronts. These are: (1) an effort to weaken the present merit system law by additional legislation; (2) court procedures contesting the constitutionality of the merit system law; and (3) an incessant verbal attack designed to discredit the merit system in the sight of the general public. Of these three attacks, the least effective has been the effort to have the merit system law declared unconstitutional on the grounds that it gave the governor legislative powers. The efforts by the legislators to either weaken the merit system or repeal it have been rather ineffectual except for the fact that employees of certain elected officials have been excluded from the merit system. The efforts to discredit the merit system so as to influence public opinion can only be evaluated in terms of the basis and extent of the criticisms of the merit system by its opponents.

Legislative Attack on Merit System

As mentioned earlier, when the Oklahoma Legislature convened in January, 1961, it was generally accepted by political observers that the merit system was to be confronted with a well-organized legislative attack. The general nature of these efforts to invalidate the merit system had been outlined by Senator Ray Fine prior to the convening of the legislature, but the specific tactics that were to be employed were revealed as the session progressed. Although the majority of the legislative opposition came from the Senate, there were a few members of the House who also

opposed the merit system.

The first of these legislative attacks upon the merit system was that of direct repeal of the statutory provisions which had created the merit system.¹ A bill with this intent was introduced by Wiley Sparkman, Representative from Grove, on the first day of the legislative session. When the bill was finally considered by the entire House, it failed to pass by a vote of 30-81.²

These measures of repeal failed, but they placed the supporters of the merit system on the defensive. Although the direct repeal of the merit system would have been the most damaging of any attack on the law, the fact that repeal had been threatened was conducive to creating a compromise attitude on the part of the supporters of the merit system. There is the possibility that some of the opponents of the merit system actually believed that the merit system could be repealed, but it is more probable that the opposition forces felt that the threat of repeal could elicit at a later date some type of compromise which would serve the purposes of weakening the merit system.³

Senator Basil Wilson of Greer introduced a bill which would have

¹Journal of the House of Representatives of the Twenty-Eighth Legislature of the State of Oklahoma, 1961, p. 42.

²Ibid., p. 401. Prior to the date when Sparkman's bill was to be considered in the House, Senator Fine along with Senators Belvin, Boecher, Bohannon, Cartwright, Cobb, Baldwin, Colston, Dacus, Ham, Hamilton, McClendon, Payne, Pitcher, Ritzhaupt, Shoemake, Stevenson, Stipe, Tipps, Wilson (Greer), and Allen introduced a similar measure for repeal in the Senate.

³In answer to this question of the reasons behind the legislative changes in the merit system law, Senator Jean Pazoureck stated that "What we had to do was to back furrow in order to retain the merit system. So with opposition, it was a question of give and take, and we had to compromise" (Jean Pazoureck, Personal Interview).

placed the merit system under the jurisdiction of the State Salary Administration.⁴ This was at the same time repeal tactics were being employed. In 1957, the State Salary Administration was created with the authority for drawing up job classifications and corresponding compensations plans for state employees. Such plans were developed within the agency and not state-wide, and the State Salary Administration Board had little administrative control over such plans. Furthermore, the administrative board of the State Salary Administration was comprised of five ex-officio members including the Governor, State Superintendent of Public Schools, Chairman of the State Corporation Commission, Secretary of State, and the Chairman of the Oklahoma Tax Commission.⁵ The purpose of such a measure was to divest control of the administration of the Personnel Board from a board appointed by the governor and replace it with an ex-officio board which could be more easily controlled by the legislature. Although the bill passed in the Senate, it died in the House Committee on County, State and Federal Government.⁶

There was an additional attempt to alter the administration of the merit system by replacing the appointed Personnel Board by an ex-officio board comprised of the Chairman of the Oklahoma Tax Commission, the Chairman of the Oklahoma Highway Commission, the Chairman of the Oklahoma Corporation

⁴Ibid., p. 432.

⁵Oklahoma Statutes, 1961, Title 74, Section 704, p. 1821.

⁶Journal of the House of Representatives of the Twenty-Eighth Legislature of the State of Oklahoma, 1961, p. 434. Later in the session, Senator Fred Harris of Lawton, one of the leading supporters of the merit system in the Senate, introduced a bill which abolished the State Salary Administration Board and transferred its duties to the State Personnel Board. It eventually became law after this effort to place the merit system under the Salary Administration Board failed.

Commission, the State Auditor, and the Director of the State Department of Welfare.⁷ This particular measure which was introduced by Rex Privett of Maramec would also have divested from the governor control of the State Personnel Board by replacing it with an ex-officio board comprised of five members.

Privett argued that this bill would solve the question of objections to the administration of the merit system by "replacing the present Personnel Board which is appointed by the governor by a five-member board of mostly elected officials."⁸ In addition, the Privett measure would have permitted state employees to take part in general elections campaigns but would have continued to restrict political activities in the primary and run-off elections.⁹ This bill also failed to pass in the House.¹⁰

In addition to these tactics which would have altered the administration of the merit system, the opposition forces devised a method of starving the merit system.¹¹ Senator Ray Fine, as a member of the Senate Appropriations Committee, was in a position to assure the inclusion of a rider in every appropriations measure for any state agency under the merit system which would "curtail inter-departmental shuffling of funds to another department."¹²

⁷Ibid., p. 362. This bill was introduced at about the same time the House refused to pass Sparkman's bill which would have repealed the merit system.

⁸Tulsa Daily World, March 21, 1961.

⁹Ibid.

¹⁰Ibid. The same thirty-three representatives who voted for Sparkman's bill for repeal of the merit system voted for the Privett measure.

¹¹The Tulsa Tribune, February 17, 1961.

¹²The Tulsa Tribune, February 8, 1961.

Since the merit system is financed on a pro rata basis with its funds coming from the agency rather than from direct appropriations, these riders would have had the effect of killing the merit system "by leaving no employees in the classified service, thus requiring no appropriations for the Personnel Board which administers the merit system."¹³ There were some "forty-one riders attached to the appropriations measures which would have totally invalidated the merit system because of lack of finances."¹⁴

The significance of such maneuvers was that it threatened the legislature with "deadlock if the House or the administration refused to yield to the Senate's demands."¹⁵ Everett Collins, Senator from Sapulpa and President pro tempore of the Senate, stated that if the House refused to go along with these Senate riders, ". . . they (the House) will have to send the revised bills back to the Senate and we will refuse to confer."¹⁶ Senator Fine stated, "If the House refuses to accept the amendments, as members of the lower chamber would be prone to do, the Senate could force a deadlock on appropriations measures."¹⁷

In answer to the Senate's efforts to kill the merit system by cutting off appropriations to any agency under the classified service, Governor

¹³The Tulsa Tribune, February 20, 1961.

¹⁴Joe Bailey Cobb, Personal Interview.

¹⁵The Tulsa Tribune, February 20, 1961.

¹⁶Ibid.

¹⁷Tulsa Daily World, February 17, 1961. Fine, commenting on these tactics, said, "I intend for that thing to die one way or the other. By inserting (these) amendments, we will put a strangle-hold on it and let it die slowly on June 30."

Edmondson threatened veto for any measure which would have harmed the merit system.¹⁸ He stated that he would veto every appropriations measure with the exclusionary rider even if it left departments without funds.¹⁹

There was never a real showdown between the administration and the Senate because of the refusal on the part of the House to accept the Senate's riders. As one House member stated, "There is some pretty strong sentiment over here for the merit system."²⁰ Unwilling to compromise on these appropriations riders even with the pressure of subsequent conferences in which the Senate attempted to exert its influence over the House, the House forced the Senate to drop this particular tactic by its continued insistence that the Senate's riders which would have starved the merit system to death were unacceptable to the House.²¹ Yet, these riders served the political function of forcing the House and the Governor to compromise on another bill affecting the merit system.

While there were several efforts to kill or weaken the merit system, there were also attempts to strengthen the merit system.²² Representative Frank Ogden of Guymon, upon the recommendation of the Personnel Board, introduced two measures which would have improved the application of the merit

¹⁸Tulsa Daily World, February 17, 1961.

¹⁹Ibid.

²⁰The Tulsa Tribune, February 8, 1961.

²¹The Tulsa Tribune, June 21, 1961.

²²As mentioned earlier, Representative A.R. Larason of Ellis introduced a bill which would have established the minimum wage for any state employee working forty hours a week at \$200.00 per month. While this has no direct bearing on these political issues under consideration, it does have an indirect bearing on the merit system in terms of upgrading the salary schedules. In turn, better salaries are conducive to attracting more competent employees.

system.²³ The first of these defined the unclassified service and empowered agencies to hire part-time employees, especially laborers, without having to take examinations administered by the Personnel Board.²⁴ The second of these bills was to establish "non-competitive appointments for certain positions of unskilled labor where the character of the work makes it impractical to supply the needs of the service effectively by competitive examination."²⁵ Both of these bills in their original forms would have strengthened the merit system by making it more easily adjustable to particular employment problems, but several of the legislators had other plans for these bills.

Having failed to achieve their ends by the various means already described, the opponents of the merit system continued their attack on the merit system by amending these bills introduced by Frank Ogden so that the amended bills, if passed and signed, would have worked to the detriment of the merit system. By the time the first of these bills reached the Governor's desk, its provisions would have substantially weakened the merit system. In its final form, the measure would have made the following revisions in the merit system:

- (1) The job security clause aimed at preventing political firing was amended so as to permit an agency head to fire an employee for incompatibility.
- (2) When a job was to be eliminated, it allowed state agencies rather than the Personnel Board to establish rules for layoffs and rehiring.
- (3) It permitted an agency to transfer an employee without the (employee's) right to appeal.

²³The Tulsa Tribune, February 8, 1961.

²⁴Journal of the House of Representatives of the Twenty-Eighth Legislature of the State of Oklahoma, 1961, p. 283.

²⁵Ibid., p. 284.

- (4) At the time the bill was passed, an agency was required to hire from the top three applicants in competitive examinations. Under this measure, if there were not as many as three names on the register, an agency could make six month provisional appointments outside the merit system.
- (5) Agencies were allowed to hire persons outside the merit system for up to sixty days if an emergency exists. Furthermore, the agency had the sole right to determine if there were an emergency.
- (6) It removed employees of elected officials from the merit system.²⁶

One of the most damaging features of this bill was that it allowed a department head to dismiss an employee on the grounds of incompatibility.²⁷ Incompatibility "could be, in the eyes of a department head, voting for the wrong candidate for governor." Senator Fred Harris said of the bill, "It gives a department head the right to hire and fire at will."²⁸

One of the other objectionable features of the amended bill was a provision which allowed a department head to transfer an employee within the department but which refused the employee the right to appeal such a transfer.²⁹ If an agency head wanted to get rid of an employee, all he would have had to do would be to transfer the employee from one unit under his authority to another. Potentially, this would permit a department head to harass an employee out of public employment by merely transferring that employee from one area to another. In terms of expense, most employees could not afford such transfers, and this amendment would have had the effect of firing an employee and then denying him the right to appeal.³⁰

²⁶The Tulsa Tribune, June 21, 1961.

²⁷Ibid.

²⁸Ibid.

²⁹Journal of the Senate of the Twenty-Eighth Legislature of the State of Oklahoma, 1961, p. 713.

³⁰The acceptance of these particular amendments to Ogden's bill by the House conferees implies that there was a compromise worked out between the

Both Representative Ogden and Senator Harris considered this measure a "bad bill" which would have virtually "emasculated the merit system."³¹ Although he was chairman of the Senate conferees on this bill, Senator Harris refused to move its adoption after the Senate conferees voted to report the amended bill favorably to the Senate for its consideration.

Governor Edmondson was confronted with a political dilemma. If he signed the bill, he would have further alienated himself with an already hostile Senate, and since he was seeking increased appropriations for his programs as well as a one cent increase in the state sales tax, he was faced with the prospect of seeing this legislation fail to pass in the Senate.³²

In spite of this prospect of intensified opposition by the Senate, the Governor vetoed the bill because it:

- (1) denied the employee the right to appeal any transfers.
- (2) authorized the dismissal of employees for incompatibility.
- (3) was in conflict with standards of federal requirements and would jeopardize any future grants.³³

As soon as it became apparent that the first bill would be vetoed by the Governor, the second of the two bills was called up from committee and the provisions of the first, excluding the objectionable provisions mentioned in Edmondson's veto message, were incorporated into this second measure. The final measure was passed by both houses and sent to the Governor. It included provisions exempting the employees of elected officials, other

House and Senate over the riders attached to the various appropriations measures. For when this compromise was settled upon, the Senate dropped its demands for the appropriation riders.

³¹The Daily Oklahoman, June 27, 1961.

³²Ibid.

³³The Daily Oklahoman, June 27, 1961.

state employees in the non-classified service, examination procedures, hiring procedures, appeal procedures, and defined the non-competitive service.³⁴

Governor Edmondson signed the compromise bill and stated "he felt that this bill strengthened the merit system rather than weakened the merit law."³⁵ Although it exempted the employees of elected officials, Governor Edmondson as well as the Personnel Director predicted that the new law would facilitate the application of the merit system law, especially in the hiring of part-time workers and non-skilled labor.³⁶

The total effect of this legislative attack on the merit system was rather negligible. Even with the exemptions, the merit system remained relatively undamaged by the efforts to weaken the merit system and make it inapplicable.

It is interesting to note that Senator Fine renewed his attack on the merit system during the 1963 session of the legislature. By attaching an amendment to a bill proposing a retirement system for state employees, Senator Fine proposed the repeal of the merit system law and the restoration of State Salary Administration.³⁷ While most political observers felt that there was little chance that Fine's admendment would be passed by both houses, it was interpreted as being a "bargaining power in the

³⁴Tulsa Daily World, June 29, 1961.

³⁵The Daily Oklahoman, July 6, 1961.

³⁶At the time this law was passed, there were only three offices of elected officials covered by the merit system. The total number of employees exempted by this law was only 65.

³⁷The Daily Oklahoman, April 2, 1963.

final showdown on major bills and the budget."³⁸

Another bill was introduced in the 1963 session by Robert Breeden, Senate Minority Floor Leader, which would exclude all state employees under the merit system whose salaries are \$7,500 a year or more. This particular bill originated in Governor Bellmon's office on the grounds that policy-making positions should not be included under the merit system. Thus, the departments should be allowed to appoint their assistants to carry out administration policy.³⁹ Since most of these positions which would be exempted by this bill were held by Democrats, there was little prospect that the Democratic legislature would vote for a bill which gave a Republican governor the power to fire approximately three hundred Democrats and replace them with Republicans.⁴⁰

Judicial Attack on the Merit System

The judicial attack on the merit system developed as a result of three separate lawsuits which challenged the constitutionality of the merit system. Initiated separately by the State Insurance Commissioner, Joe B. Hunt, the Corporation Commission, and James William Touchstone, Highway Department foreman at Broken Bow, each one of these lawsuits sought permanent injunctions prohibiting the inclusion of the respective agencies under the merit system.⁴¹ Since the lawsuit initiated by Joe B. Hunt was considered

³⁸Ibid.

³⁹Oklahoma City Times, April 10, 1963. There is no correlation between salaries of \$7,500 and policy-making positions.

⁴⁰Ibid.

⁴¹The Tulsa Tribune, March 29, 1960. One interesting observation which indicates the close relationship between some of these elected

by the courts before the other two, the discussion of the judicial attack will be limited to this particular case as the others were settled upon the principles established in these proceedings.

In November of 1959, the State Personnel Board set April 25, 1960, as the date it would place the State Insurance Commission under the merit system by executive order.⁴² The precedent for the inclusion of the employees of elected officials was based upon the requests made by the Secretary of State, State Treasurer, and the State Examiner and Inspector that their employees be placed under the merit system. Mr. Hunt, upon notice that his agency would be covered by the merit system, asked Fred Hansen, acting Attorney General, if this intended inclusion of his employees under the merit system violated either the constitution or the merit system law.⁴³ The Attorney General's Office ruled that there was nothing unconstitutional in the delegation of authority to the governor to place agencies under the merit system. Furthermore, the merit system law could not be construed to prohibit the inclusion of the employees of elected officials since this prohibition had not been included in the law.⁴⁴

In April of 1960, Hunt obtained a temporary restraining order from the Oklahoma County District Court which would have prevented the Personnel Board from exercising jurisdiction over the employees of the State Insurance Commission.⁴⁵ As a result of subsequent proceedings, the district court

officials and the legislature was that Senator Everett Collins was handling the lawsuits of both the Insurance Commissioner and James Touchstone.

⁴²The Tulsa Tribune, December 4, 1959.

⁴³Ibid.

⁴⁴Ibid.

⁴⁵Joe B. Hunt v. Dale A. Schmitt, District Court of Oklahoma County, Number 149,486.

granted a permanent restraining injunction denying the Personnel Board jurisdiction over employees of the Insurance Commission. The district court ruled the merit system law unconstitutional in that it "gives the governor...unlimited authority to place agencies under the act when he, in his discretion, deems that this should be required without providing a standard for his guidance."⁴⁶

The immediate significance of the lower court's ruling was that it excluded the employees of the State Insurance Commission from the jurisdiction of the merit system. If it were unconstitutional to place the Insurance Commission under the merit system by executive order, it was quite likely that every agency placed under the merit system had been placed there illegally. This decision potentially invalidated the entire law.

The Personnel Board appealed to the Oklahoma Supreme Court, and the lower court's decision was reversed by a 6-3 vote.⁴⁷ The Supreme Court decision stated that the merit system did not constitute "an unlawful delegation of legislative authority to the State Personnel Board" and "the powers granted the Personnel Board are in harmony with our constitutional provisions."⁴⁸

The effort to challenge the merit system on the grounds of its constitutionality brought little harm to it. But the same purpose of this judicial attack was accomplished when the legislature exempted the employees of all elected officials from the merit system. For all

⁴⁶ Ibid.

⁴⁷ The Tulsa Tribune, December 12, 1960.

⁴⁸ Dale A. Schmitt v. Joe B. Hunt, Okla., 359 P.2d 198.

practical purposes, the opposition to the merit system by elected officials terminated as their employees could not be included under the merit system.

Efforts to Discredit the Merit System

The third area of attack on the merit system has taken a far more subtle and less discernible nature than the legislative or judicial attacks. Disguised in the technicalities of bringing to the public's notice certain violations of the merit system law, this attempt has been directed so as to discredit the merit system in the eyes of the general public. Using many isolated examples of violations of the merit system law, the opponents of the merit system have exploited these violations so as to depreciate the success of the reform measure. By a continued and sustained effort, this attempt to discredit the merit system has the potential of reducing the objections of public opinion at modification and change in the merit system law.

Often times, those who criticize the merit system had no administrative standards of their own by which to make value judgments on the effect of the merit system and the competency of employees hired under it. In addition, very few of the critics of the merit system are aware of its functions or objectives. Many of its critics state that they are not opposed to the present merit system law.

Criticism directed at the merit system is usually based upon a few particular instances when the merit system's provisions had been violated. The most repeated of these criticisms centered around the State Insurance Fund which was recently placed under the merit system after it was "stacked" by Edmondson supporters, the Tenkiller investigations of alleged political activity by state employees, and the efforts by Governor Edmondson to permit

state employees to participate in certain party functions and in his initiative petition campaigns. Although there are other particular instances in which the merit system law has been violated, these violations lend themselves to the observation that the merit system law should be strengthened so as to eliminate such violations rather than weakened so as to allow more violations.

During the 1961 session, the House established a General Investigating Committee under the chairmanship of O.E. Richeson of Henryetta to investigate alleged charges of violations of the merit system.⁴⁹ Initiated by Representative Jack Skaggs, Oklahoma City, the investigations of the special committee sustained the charges that the employees of the State Examiner and Inspector had violated the restrictions of the merit system on political activity by contributing to the campaign fund of John Rogers, Jr., the son of the State Examiner and Inspector, John Rogers. Even though the violations had occurred, the investigating committee indicated that many of the employees in the Examiner and Inspector's Office were unaware of these restrictions on political activity.⁵⁰

The report was sympathetic to the principles of merit employment, and it indicated that in each instance of a violation the merit system law, those charged with the violations

denied a knowledge of a violation of the merit system and the evidence was uncontradicted that no employee in the Examiner and Inspector's Office was informed directly of his or her being placed under the Merit System of Personnel Administration.⁵¹

⁴⁹Journal of the House of Representatives of the Twenty-Eighth Legislature of the State of Oklahoma, 1961, pp. 187ff.

⁵⁰Ibid.

⁵¹Ibid.

From its investigations, the special committee recommended that employees be educated so as to inform "the employee of his, her, or their relationship to state employment by virtue of the merit system."⁵²

Whatever violations the investigating committee found the committee felt they had taken place as a result of ignorance of the law rather than as a result of knowledgeable attempts to circumvent the law.

⁵²Ibid.

CHAPTER V

CONCLUSION

This study of the Oklahoma merit system has recounted how the merit system was introduced into the state by a somewhat reluctant legislature upon the recommendation of a reform-minded governor. It was this governor who gave life to the new merit system by actually applying it, extending its coverage to many state agencies which were not specifically included in the provisions of the law, and then defending the merit system against its enemies. The opposition to the merit system, as has been indicated in the foregoing pages, attempted to forestall application of the law and threatened on several occasions to abolish the merit system through repeal. From these observations, a partial answer to the question with which this study was introduced can be made. This concerns the possible relationships between the presence of a "non-political" state personnel system and other traditional political institutions of the state.

Probably the most noteworthy feature of the influence of a merit system in Oklahoma is the fact that there has followed an apparent decline in the value of political patronage to the state's politicians. Political patronage has lost much of its respectability as well as its utility to the traditional political arrangements.

In a state in which there is only one political party, the significant political struggles are intra-party rather than inter-party. Under a one-party arrangement, political patronage has far more value to the

individual politician than to the party in general. Since the party is not faced with any strong opposition from another party, political patronage is of little value to the party in its efforts to maintain its position. But to the individual politician or to the factions within the party, political patronage serves two purposes. For one thing, political patronage can be used to obtain control of the party machinery. Secondly, patronage can be utilized by the politician to build a source of political power which enables him to obtain public office. With the promise of state employment in return for political support, the politician, depending on both the public office to which he aspires as well as his own capabilities to obtain access to state jobs, can develop a political machine on the basis of these political appointments.

Opposition to the efforts at altering the political patronage system came from those who would be most directly affected by the loss of patronage. The greatest opposition to the merit system came from those legislators and elected officials who were denied political patronage under the new law. These were the individuals who had made extensive use of political appointments under the patronage system.

Those who favored the merit system had either little to lose in terms of any modification in the source of political power or who found political patronage a source of annoyance and an outmoded source of political power. Many of the state's politicians indicated or at least gave lip-service to the fact that political appointments were often disadvantageous rather than helpful in terms of political support. Many of those individuals who were appointed to public employment under the patronage system were not political assets to the politicians in terms of campaign or financial support. Furthermore, one political

appointment, while pleasing the appointee, would often create discontent among the other aspirants also seeking public employment. In addition to making one political friend, the politicians also made political enemies.

Not only has the merit system had an effect upon state politics, but the merit system has altered the traditional administration of the state's personnel. Political patronage was expensive to the state in terms of administration as well as the fact that employees were driven from state employment to private industry. Because of the malpractices in administration which existed under the patronage system, qualified personnel have been reluctant to seek public employment. Yet, with the continued specialization of government functions, there has been an increasing demand for competent personnel.

A properly administrated merit system will provide the conditions of job security which serve to attract competent personnel. Under the laws of the Oklahoma merit system, state employees are relatively immune from the interference of the politician. No longer subject to the pressure of political obligations, the state employees are assured of job security in return for personal merit and competency.

In addition to providing a degree of job security, the Oklahoma merit system has attempted to effect a system of uniform job classifications and a uniform pay scale for state employees under its jurisdiction. Such a project will be instrumental in the elimination of salary discrepancies from agency to agency and will help improve the morale of state employees. Efforts have also been made to improve state employment by upgrading salaries and providing state employees with a retirement program.

Further generalizations would be hard to justify in view of the data provided in this study, but a few comments suggestive of matters deserving additional study may be made. For one thing, there is evidence that the traditional patronage practice in which individuals were appointed to state employment has been replaced by patronage in the form of contracts and specialist fees. While personnel patronage has lost its utility, this new form of patronage serves relatively the same purpose in which political support is exchanged for the dispensation of state contracts and services. Secondly, the decline of personnel patronage seems to have at least an indirect correlation with economic conditions. Pressure for expanded public employment increases during periods of economic hardships. With an improvement in the economic conditions, state employment loses its desirability. Thirdly, there is evidence that the modern political campaign has also influenced the decline of political patronage in state personnel. With sophisticated campaign techniques, the role which the political appointee has played in the campaign has been diminished.

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