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COMMENTS

THE RIGHT OF WYOMING STATE AND MUNICIPAL EMPLOYEES TO ORGANIZE, RECEIVE EXCLUSIVE RECOGNITION, AND BARGAIN COLLECTIVELY

Labor Law as we know it today in the United States is primarily based on the National Labor Relations Act.¹ This Act provides that employees shall have the right to organize, bargain collectively and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.² However, the Act in defining employer specifically excludes employees of "the United States . . . or any State or political subdivision thereof."³ The effect of this provision is to exempt all governmental employees from the operation of the National Labor Relations Act. Thus the rights of public employees to organize into unions, collectively bargain, or strike are not controlled by traditional labor statutes.

In 1961, President Kennedy by Executive Order granted federal employees the right to join unions and to engage in collective bargaining.⁴ There is no similar authority uniformly applicable to state employees; rather the organizational rights of state employees depend upon state statutes, judicial decisions, and state and federal constitutional provisions.

Rapidly changing conditions make this an era of turmoil in public employment labor relations. Public demands for more and better public service has caused enormous growth in the number of public employees and has required dramatic changes in the nature of the jobs they perform. Old employer-employee relationships have gone, replaced by a restless search for new and better ways.⁵

1. 49 STAT. 449 (1935), as amended 29 U.S.C. 151-68 (1964).

2. 29 U.S.C. § 157 (1964).

3. *Id.* § 152(2).

4. EXEC. ORDER No. 10,988, 26 FED. REG. 551 (1962).

5. Rockefeller, Gov. Nelson A., *Towards Equity and Order*, TRIAL Dec./Jan. (1969-70), at 14.

In the absence of favorable state legislation and in some cases in spite of such legislation, state employees are caught in a society which has traditionally shown that it is the organized whose demands are heard and answered, yet the organizational efforts of governmental employees have been hampered at every turn. The real fear of public employee organizational efforts is that organization will lead to demands, and when the demands are not met, a strike will result. Because we are a society highly dependent on state and municipal services, and aware that a public employee strike may halt the operation of our public schools, garbage collection, transportation, etc., resistance to such strikes is understandable. Refusal to recognize representatives selected by public employees, however, is hardly the way to avoid public employee strikes. In fact, it has been stated that recognition is the second highest cause of public employee strikes,⁶ and "legislative attempts to prohibit strikes by teachers, transit workers, sanitation men, and other public employees have just not worked as a practical matter."⁷ Thus, the way to minimize the public employee strike is not to disregard the organizational movement and the demands of the organization, but to recognize the organization, learn to work with the organization, and look for alternatives to the use of economic weapons.

"[T]he right of public employees to join or become members of labor unions is becoming increasingly recognized."⁸ During the three years ending in 1968 unions representing public employees increased memberships nearly twenty-five percent—a rate more than four times greater than the labor movement as a whole—and accounting for roughly half of the net gains in memberships of organized labor.⁹ The fastest growing labor organization in the country is the American Federation of State, County, and Municipal Employees, AFL-CIO.¹⁰

6. Anderson, *Public Employees and Collective Bargaining: Comparative and Local Experience*, 21 N.Y.U. CONF. LABOR 451, 456 (1969).

7. Aksen, *Introduction: Public Employees and Collective Bargaining*, 21 N.Y.U. CONF. LABOR 447, 448 (1969).

8. Am. Fed'n. of State, County & Mun. Employees, AFL-CIO v. City of Keene, 108 N.H. 68, 227 A.2d 602, 603 (1967).

9. Rockefeller, *supra* note 5.

10. TRIAL Dec./Jan., (1969-70), at 10.

It is the purpose of this article to determine the rights of persons employed by the State of Wyoming, or political subdivisions thereof, to organize, to have the organization obtain exclusive recognition, and to bargain collectively under existing Wyoming legislation and federal and state constitutional provisions.

APPLICABLE WYOMING LEGISLATION

A Wyoming statute enacted in 1933 states:

It is hereby declared to be the policy of the State of Wyoming that workers have the right to organize for the purpose of protecting the freedom of labor, and of bargaining collectively with employers of labor for acceptable terms and conditions of employment, and that in the exercise of the aforesaid rights, workers should be free from the interference, restraint or coercion of employers of labor, or their agents in any concerted activities for their mutual aid or protection.¹¹

The language of the statute refers only to workers and it does not expressly limit the classification, workman, to a private employee, nor does it expressly exclude public employees. The Wyoming Supreme Court has never ruled as to the scope of the term "workman" in the statute. Although the Wyoming Supreme Court has stated that "[u]nder the 1933 statement of policy there is no exclusion of public employees," it went on to state that "nothing we say should be construed as a decision with respect to the right of public employees" as a whole.¹²

The only other significant piece of legislation in Wyoming provides that Fire Fighters have the right to organize, to have their organization recognized as the exclusive bargaining agent and to bargain collectively. Any agreement reached at such bargaining session is to become part of the employment contract, and in the event no agreement can be reached the unresolved issues are to be submitted to arbi-

11. WYO. STAT. § 27-239 (1957).

12. *State v. City of Laramie*, 437 P.2d 295, 299 (Wyo. 1968).

tration.¹³ This piece of special legislation has been held constitutional.¹⁴

THE RIGHT OF PUBLIC EMPLOYEES TO ORGANIZE

The constitutional right of private employees to organize or join labor unions has been recognized for more than a century.¹⁵ In 1937, the United States Supreme Court stated, "Employees have as clear a right to organize and select their representatives for lawful purposes as the management has to organize its business and select its own officers and agents."¹⁶

The right of state and municipal employees to organize into unions is of more recent origin, and as yet is not universally accepted. The right of public employees to organize and join labor organizations has been created by constitutional provision in two states, and by legislation in eighteen states.¹⁷ One state has created the right to organize and join a union by legislation at one level of government, and denied it at another by judicial decision. Three states by legislation specifically prohibit their employees from organizing and joining unions. Eight other states have dealt with the problem by case law and two of these states created the right.¹⁸

Recent United States Supreme Court decisions and lower Federal Court decisions, however, seem to hold that the right of public employees to organize is guaranteed by the first and fourteenth amendment to the Constitution of the United States. In *NAACP v. Alabama*,¹⁹ the Supreme Court stated "It is beyond debate that freedom to engage in association . . . is an inseparable aspect . . . of the Fourteenth Amendment which embraces freedom of speech."²⁰

Recently the Seventh and Eighth Federal Circuits and a Three Judge United States District Court for the Western

13. WYO. STAT. § 27-265 to 273 (1957).

14. *State v. City of Laramie*, *supra* note 12.

15. *Commonwealth v. Hunt*, 4 Mete. (Mass.) 111 (1842).

16. *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 33 (1937).

17. SULLIVAN, PUBLIC EMPLOYEE LABOR LAW, § 8.3, at 31-32 (1969).

18. *Id.*

19. 357 U.S. 449 (1958).

20. *Id.* at 460.

District of North Carolina, relying in part on *NAACP v. Alabama*,²¹ have held that state and municipal employees have the constitutional right to organize.²² The Eighth Circuit stated "Union membership [of public employees] is protected by the right of association under the First and Fourteenth Amendments."²³ The Seventh Circuit stated "It is settled that teachers have the right of free association, and unjustified interference with the teachers' associational freedom violates the Due Process clause of the Fourteenth Amendment. . . . Public employment may not be subjected to unreasonable conditions."²⁴ The United States District Court held that a North Carolina statute prohibiting governmental employees from becoming members of labor organizations which is, or may become affiliated with national or international labor organizations, and which has for its purpose collective bargaining is void on its face as an abridgment of freedom of association and is an intolerable overbreadth unnecessary for the protection of valid state interests.²⁵

Some jurisdictions have allowed most public employees to organize, but have specifically disallowed certain public employees this right.²⁶ A 1969 Missouri case²⁷ is a typical example in holding that a statute conferring upon public employees the right to join labor unions, but excluding police, deputy sheriffs, highway patrolment, National Guardsmen, and teachers does not render it unconstitutional on the basis of an arbitrary and unconstitutional classification.²⁸ The fear of many states, like Missouri, is that organization will lead to strikes, and certain public employees, e.g., police, firemen, etc., must be kept on the job. Because of this fear, many states feel that they can recognize the right of some

21. *Id.*

22. *Am. Fed'n. of States, County, & Mun. Employees, AFL-CIO v. Woodward*, 406 F.2d 137 (8th Cir. 1969); *McLaughlin v. Tilendis*, 398 F.2d 287 (7th Cir. 1968); *Atkins v. City of Charlotte*, 296 F. Supp. 1068 (W.D. N.C. 1969).

23. *Am. Fed'n. of State, County, & Mun. Employees, AFL-CIO v. Woodward*, *supra* note 22, at 139.

24. *McLaughlin v. Tilendis*, *supra* note 22, at 288.

25. *Atkins v. City of Charlotte*, *supra* note 22, at 1075.

26. *Sullivan*, *supra* note 17, § 8.3.

27. *Missey v. City of Cabool*, 441 S.W. 2d 35 (Mo. 1969).

28. *Id.* at 43.

public employees to organize, while denying the right to "important" employees. In doing this the state feels that it has fulfilled the constitutional right of public employees to organize, and yet has eased its fear that certain "important" public employees will strike.

Under the federal cases previously mentioned,²⁹ it would appear that states which exclude certain public employees from the right to organize are unconstitutional because of an arbitrary and unconstitutional classification. The Seventh Circuit has held that teachers cannot be denied the right to organize.³⁰ The United States District Court for the Western District of North Carolina held the firemen have the right to organize, and the abridgement of this right is an abridgement of freedom of association and would be an intolerable overbreadth unnecessary for the protection of a valid state interest. Thus an unreasonable and arbitrary classification.³¹

The courts in holding that the exclusion of certain employees from the right to organize is unreasonable and arbitrary have done so in recognition of the contention of many leading authors that "[t]he right to organize and join a union in which the public employee can participate in the decision making process is the most significant method of minimizing the possibility of a public employee strike."³² It thus appears that if organization lessens the chance that public employees will strike, then any exclusion of a class of employees based on the contention that they are more important to the public welfare, is obviously false reasoning and no basis for separate classification.

The Wyoming Court in a 1952 case citing Article 1, Section 2 of the Wyoming Constitution and the Declaration of Independence stated that under the rights of Life, Liberty and the Pursuit of Happiness, there is no logical reason for saying that the right to belong to a union or not to belong is excluded from this guarantee. "We think that these provi-

29. *Supra* note 22.

30. *McLaughlin v. Tilendis*, *supra* note 22.

31. *Atkins v. City of Charlotte*, *supra* note 22, at 1075.

32. Sullivan, *Binding Arbitration in Public Employment Labor Disputes*, 36 U. CIN. L. R. 666, 667 (1967); Foegen, *A Qualified Right to Strike in the Public Interest*, 18 LABOR L.J. 90 (1967).

sions guaranty free choice in this respect to every man and no legislative provision is necessary in that connection to further this guaranty."³³ Even though this case dealt with a private employee it has the same basic policy and constitutional statements found in more recent decisions holding that public employees have the constitutional right to organize. It would thus appear that if confronted with the question of public employees' right to organize, the Wyoming Court would follow the most recent decisions which find in favor of organizational rights.

Let us now turn our attention to consider whether once public employees are organized will they be allowed to bargain collectively with their employer.

THE RIGHT TO BARGAIN COLLECTIVELY

As previously stated, Wyoming provides by statute that workers have the right to bargain collectively with employers for "acceptable terms and conditions of employment."³⁴ The Wyoming court has never taken a position as to whether public employees come within the term "workers" as used in the statute. If the court were to hold that public employees along with private employees come within the statutory term "workers" then collectively bargaining would be available to public employee unions.

This question has occurred in several jurisdictions where, like Wyoming, the statutory language is broad enough to include public employees. The majority of these cases have held that unless the public employer is expressly authorized to bargain collectively, the government cannot do so.³⁵ An Arkansas state statute states that it is the policy of Arkansas that organized labor has the freedom to bargain collectively.³⁶ The Arkansas Supreme Court in construing this provision stated, "We are unable to read into that preamble, which is

33. *Hagen v. Culinary Workers Alliance Local No. 337*, 70 Wyo. 165, 246 P.2d 778, 788 (1952).

34. WYO. STAT. § 27-239 (1957).

35. *City of Fort Smith v. Ark. State Council 38, AFL-CIO*, 433 S.W. 2d 153 (Ark. 1968); *Anderson, supra* note 6.

36. ARK. STAT. ANN. § 81-201 (Repl. 1960).

merely a statement of policy expressed in the most general terms, a specific command that municipalities engage in collective bargaining when requested to do so. Had the General Assembly intended that change in the law it would certainly have used more explicit language to accomplish its purpose."³⁷ Kansas,³⁸ Nebraska,³⁹ and Idaho⁴⁰ have had cases similar to the Arkansas decision saying that the term "employee" used in their statute does not apply to public employees.

As an extreme opposite, New Mexico⁴¹ and New York⁴² have allowed collective bargaining in the absence of favorable legislation. The New York court reasoned that the general statutory language creating a transit authority is broad enough to allow the city to enter into collective bargaining. The New Mexico court, in allowing collective bargaining, based its decision on the fact that the government was engaged in a proprietary venture, rather than a strict governmental function.⁴³ These two decisions point to the fact that courts have allowed collective bargaining even though there is no favorable legislation, implying the power to bargain collectively from the right of the governmental subdivisions to enter into necessary contracts.

Those jurisdictions which have by judicial decision denied public employees the right to bargain collectively have expressed several reasons for so holding. The argument on which they most frequently rely is that specific legislation is needed because such bargaining would involve an improper delegation of governmental authority to private persons.⁴⁴ This argument seems of little merit because public employers

37. *City of Fort Smith v. Ark. State Council 38, AFL-CIO*, *supra* note 35, at 156.

38. *Wichita Public Schools Employees Union, Local 513 v. Smith*, 194 Kan. 2, 397 P.2d 357 (1964).

39. *Int'l. Bhd. of Elec. Workers, Local 507 v. City of Hastings*, 179 Neb. 455, 138 N.W.2d 822 (1965).

40. *Local 283 Int'l. Bhd. of Elec. Workers v. Robinson*, 91 Idaho 445, 423 P.2d 999 (1967).

41. *Int'l. Bhd. of Elec. Workers, Local 611 v. Town of Farmington*, 75 N.M. 393, 405 P.2d 233 (1965).

42. *Civil Service Forum v. New York City Transit Authority*, 4 N.Y.2d 866, 150 N.E.2d 705, 163 N.Y.S.2d 476 (1958).

43. *Sullivan*, *supra* note 17, § 12.2, at 85-86.

44. *City of Fort Smith v. Ark. State Council 38, AFL-CIO*, *supra* note 35.

do not have to agree to the union demands and the public employer delegates no authority to the employee representative.⁴⁵ The actual contract power remains with the governmental agency. The only function collective bargaining has on the decision is by informing the employer of the demands of the employee group, rather than each employee making separate demands. There is no more delegation whether the employee makes his demands known individually or through a representative.

The Wyoming Constitution provides: "The legislature shall not delegate to any special commissioner . . . any power to make, supervise or interfere with any municipal improvements, moneys, property or effects . . . to levy taxes, or to perform any municipal functions whatever."⁴⁶ The Wyoming Court in a recent decision has stated, "No delegation of power is involved with respect to collective bargaining. The city does its own bargaining and performs whatever municipal functions are involved in this process."⁴⁷ It would appear therefore that the Wyoming Court has recognized that the bargaining process does not involve a delegation of authority.

A second reason on which several courts have relied in refusing to recognize collective bargaining is that collective bargaining is only permissible where a state statute specifically permits bargaining with public employees.⁴⁸ The Wyoming Statute does not exclude public employees, but it does not specifically mention them in the statement of policy that allows "workers the right to organize."⁴⁹

Even in the absence of specifically mentioning public employees in the statute, however, the power to collectively

45. Dole, *State and Local Public Employee Collective Bargaining in the Absence of Explicit Legislative Authorization*, 54 IOWA L. REV. 539, 543 (1969).

46. WYO. CONST. art. 3, § 37.

47. *State v. City of Laramie*, 437 P.2d. 295, 300 (Wyo. 1968).

48. *Local 266, Int'l. Bhd. of Elec. Workers v. Salt River Project Agri. Improvement & Power Dist.*, 78 Ariz. 30, 275 P.2d 393, 397 (1954); *Fellows v. LaTronica*, 151 Colo. 300, 377 P.2d 547, 551 (1962); *Chicago Div. of Ill. Educ. Ass'n. v. Bd. of Educ. of the City of Chicago*, 76 Ill. App.2d 456, 222 N.E.2d 343 (1966); *Civil Service Forum v. New York City Transit Authority*, *supra* note 42.

49. WYO. STAT. § 27-239 (1957).

bargain with employees can be implied from the authority to contract with employees. Collective bargaining is merely a method that allows employer and employee to work out a suitable contractual arrangement as to the terms of employment. Absent collective bargaining the agency must still contract for employment; this impliedly means determining the wants, needs, and desires of the employees and considering them in the contract. The bargaining process is an adjunct to any contract and collective bargaining is merely a method of bargaining.

A third argument relied on by some courts to refuse collective bargaining is that collective bargaining by public employees conflicts with the doctrine of separation of powers between the legislature and executive branches.⁵⁰ This argument can be answered by showing that there has been a proper delegation of the authority to contract from the legislature to the executive branch; it can then be shown that the implied power to bargain collectively is an incident to the authority to contract. Thus no problem with separation of powers.

Another concept on which courts have relied to reject collective bargaining is that such bargaining would interfere with the states' civil service or merit systems.⁵¹ Even when there is a civil service or merit system, as in Wyoming,⁵² it does not necessarily preclude collective bargaining; it merely limits bargaining to those areas not covered by the merit system or within the bounds of such system. "[I]n the absence of an express statutory prohibition, a civil service system does not preclude the negotiation of collective bargaining contracts which are consistent with the system."⁵³

"The most significant factor inhibiting implication of a power to bargain collectively is the unfounded fear that the legitimization of public employer collective bargaining will

50. *Fellows v. LaTronica*, *supra* note 48, at 550-51.

51. *Local 266, Int'l. Bhd. of Elec. Workers v. Salt River Project Agri. Improvement & Power Dist.*, *supra* note 48; *Int'l. Bhd. of Elec. Workers, Local 611 v. Town of Farmington*, *supra* note 41; *Civil Service Forum v. New York City Transit Authority*, *supra* note 42.

52. WYO. STAT. §§ 35-24, 19-121, 42-46, 42-38, 15.1-281 to -302 (1957).

53. *Dole*, *supra* note 45, at 547.

increase the incidence of public employee strikes. Collective bargaining and strikes do not necessarily go hand in hand.”⁵⁴ “To those who believe that collective bargaining laws provoke public employee strikes and discord, [need only] look at the record in the states where no collective bargaining laws exist. Recent events in Ohio, Illinois, Florida, Georgia, California, Kansas and others would demonstrate that strikes in public employment will occur in states that have no collective bargaining laws, as well as in those that have them.”⁵⁵ The important question in this regard is not whether strikes will occur, but whether the state will provide adequate facilities to cope with labor problems, and if disagreement occurs, whether there will be orderly procedures to deal with the cause of the employee unrest.

Wyoming has an adequate statutory provision in which to allow public employees to bargain collectively, if the Wyoming Court construes the term “workers” to include public employees.⁵⁶ Even if the Wyoming Court refuses to find that public employees come within the statute, it would appear that the right to collectively bargain can be implied from the right of governmental employers to contract to hire labor. The traditional arguments which have been used to defeat collective bargaining by public employees, either through statutory construction or from implication do not appear to be valid. By viewing collective bargaining as merely a means in which employees, through their representative, are given an opportunity to enter into labor contract bargaining, collective bargaining becomes merely an adjunct to the contractual arrangement. The right of a public employee to have some voice in the labor arrangement under which he must toil can hardly be questioned, and the method in which he makes his voice heard, either as an individual or by a representative, would seem to be no real threat to the state, therefore the means of bargaining through a representative should be recognized.

We have thus far analyzed the right of public employees

54. *Id.* at 549-50.

55. Anderson, *supra* note 6, at 453-54.

56. WYO. STAT. § 27-239 (1957).

to organize and bargain collectively, let us now turn our attention to the question whether a public employee labor organization can become the *exclusive* representative of the employees when bargaining with the employer.

THE RIGHT TO RECEIVE EXCLUSIVE RECOGNITION

A labor organization that receives no form of recognition from an employer may be no more than a social club. Recognition of any kind is an absolute essential in this relationship. The employer must visibly make his intentions known in order to provide for any reciprocity, and not just unilateralism.⁵⁷

In an early decision concerning exclusive recognition the court refused to allow a governmental employer to exclusively recognize an employee organization.⁵⁸ Later decisions have allowed exclusive recognition at least when a majority of the employees support the recognition. The exclusive representative is required to represent all employees regardless of union membership, and employees are given assurances that exclusive representation will not preclude presentation of complaints to the public employer.⁵⁹

It could be argued that state Right to Work Laws prohibit exclusive recognition because no person is required to become or remain a member of any labor organization as a condition of employment or continuation of employment. Professor Dole states that "the prescription of . . . the right to work law can be satisfied by conditioning exclusive recognition on protection of the interests of employees who do not favor exclusive recognition."⁶⁰ Adequate safeguards suggested by Professor Dole include:

57. Sullivan, *supra* note 17, § 9.1.

58. *E.g.*, *Mugford v. Mayor and City Council of Baltimore*, 185 Md. 266, 44 A.2d 745 (1946).

59. *Local 266, Int'l. Bhd. of Elec. Workers v. Salt River Project Agri. Improvement & Power Dist.*, *supra* note 48; *Chicago Div. of Ill. Educ. Ass'n v. Bd. of Educ. of the City of Chicago*, *supra* note 48; *Int'l. Bhd. of Elec. Workers, Local 611 v. Town of Farmington*, *supra* note 41; *Civil Service Forum v. New York City Transit Authority*, *supra* note 42; Dole, *supra* note 45, at 547-48.

60. Dole, *supra* note 45, at 556.

(1) withholding exclusive recognition until there is satisfactory evidence of at least majority employee support for a particular representative; (2) requiring the exclusive representative to represent all of the employees concerned regardless of union membership; and (3) guaranteeing employees the right of presenting complaints directly to the public employer.⁶¹

Where these conditions are present a number of decisions have upheld the validity of the exclusive recognition at common law.⁶² Under this approach exclusive recognition would not conflict with the typical Right to Work Law because the union representative is required to represent all the employees whether they are union members or not, and any non-union employee may present any of his complaints directly to the governmental employer. Thus giving the individual employee those freedoms which underlie a Right to Work Law.

Wyoming does not have a typical Right to Work statute.⁶³ Wyoming's Right to Work Law specifically states "No person is required to have any connection with . . . any labor organization as a condition of employment or continuation of employment."⁶⁴ This provision has the effect of saying that an unwilling employee cannot be forced to have any relationship with a labor organization, and because exclusive bargaining would result in some relationship, exclusive representation can be utilized for only those employees who want to have such a relationship. As to private employees this statutory provision has been held to be unconstitutional because it is not in conformity with Section 9(a) of the Labor-Management Relations Act.⁶⁵ The Wyoming provision would appear to be constitutional as to public employees because

61. *Id.*

62. Local 266, Int'l. Bhd. of Elec. Workers v. Salt River Project Agri. Improvement & Power Dist., *supra* note 48; Chicago Div. of Ill. Educ. Ass'n. v. Bd. of Educ. of the City of Chicago, *supra* note 48; Int'l. Bhd. of Elec. Workers, Local 611 v. Town of Farmington, *supra* note 41; Civil Service Forum v. New York City Transit Authority, *supra* note 42.

63. WYO. STAT. § 27-245.1 to -245.8 (1957).

64. *Id.* § 27-245.5.

65. Local 415, Int'l. Bhd. of Elec. Workers v. Hansen, 400 P.2d 531 (Wyo. 1965).

public employment is exempt from the Labor-Management Relations Act.⁶⁶

The same argument could be made with respect to the inclusion of public employees within the Wyoming Right to Work Law as has been discussed in relation to the Wyoming statutory provision giving "workers the right to organize and bargain collectively." If public employees were not included within the Right to Work Law there would be a greater possibility that the Wyoming Court would recognize exclusive recognition for public employee organizations. However, the Wyoming Right to Work Statute in defining "labor organization" includes "any organization, or agency or employee representation committee, plan or arrangement, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."⁶⁷ This definition is so broad that it would seem to include "any organization," whether the organization be comprised of public or private employees, leaving public employees subject to the anti-exclusive representation provisions of the Wyoming Right to Work Law.

It appears that only those public employees who desire to be represented by the labor organization are the only ones that the organization can bargain for. Therefore, under Wyoming law, as it stands today, exclusive recognition for public employees is dead. Collective bargaining on behalf of public employees is effective for only those who want the labor organization to act as their agent.

CONCLUSION

Wyoming statutory provisions allowing organization and collective bargaining are broad enough to include public employees. If the Wyoming Court concludes that it was not the legislative intent to allow public employees the same

66. 49 STAT. 449 (1935), *as amended* 29 U.S.C. § 152(2) (1964).

67. WYO. STAT. § 27-245.1 (1957).

rights as their private counterparts, the right of organization is assured by the United States Constitutional provision guaranteeing the freedom of association and collective bargaining arising by implication from the express power of contract given to state and state subdivision administrators.

In regard to exclusive recognition it appears that the Wyoming Right to Work Law precludes any exclusive bargaining arrangement as to public employees.

WILLIAM L. CORBETT

