

Executive Order 10988

The 1962 presidential order that led to NALC being recognized and negotiating the first national agreement

As NALC engages in the current interest arbitration process, even as we continue to negotiate for a new national agreement, this is a good time to reflect on how the first postal national agreement came about, and how it took the act of a president to make it happen.

Although the National Association of Letter Carriers has existed since 1889, letter carriers had few rights in the workplace up until the 1960s. In many ways, it's easier to tell you what rights letter carriers and their union didn't have:

- NALC had no rights on the workroom floor;
- There was no collective-bargaining agreement spelling out the rights of carriers and the responsibilities of management;
- There was no grievance procedure to challenge any of management's actions; and

Letter carriers had no right to union representation, much less a hearing

The Postal Manual



President Kennedy signs Executive Order 10988 with NALC President William Doherty (fourth from l) in attendance.

before an arbitrator. In the workplace, if not on Capitol Hill, letter carriers were on their own.

The only rights that federal workers could claim were from the 1912 Lloyd-LaFollette Act, which required that employees be given notice of any proposed charges, and that they be allowed a reasonable time to file an answer to the charges against them.

The only written document was the *Postal Manual*. In 1961, a branch scribe from Stamford, CT, described the manual in the pages of *The Postal Record*, this way:

- P ... is for porous—full of loopholes*
- O ... is for omnipotence—unlimited power*
- S ... is for sovereign or supreme power*
- T ... is for tease or taunt—they make provisions for you in one paragraph and take them away in the next*
- A ... is for archaic, old-fashioned and antiquated*
- L ... is for latitude—they allow themselves plenty of it*
- M ... is for mobility—you can always move when you are boxed in*

A ... is for authority—it takes the place of justice

N ... is for negotiate—though it very rarely works

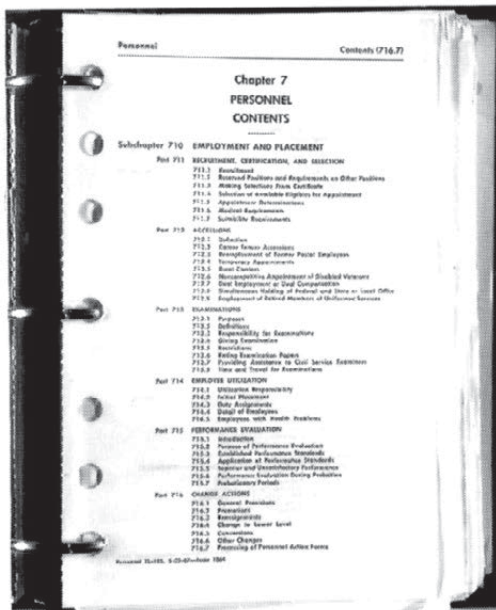
U ... is for unilateral or one-sided

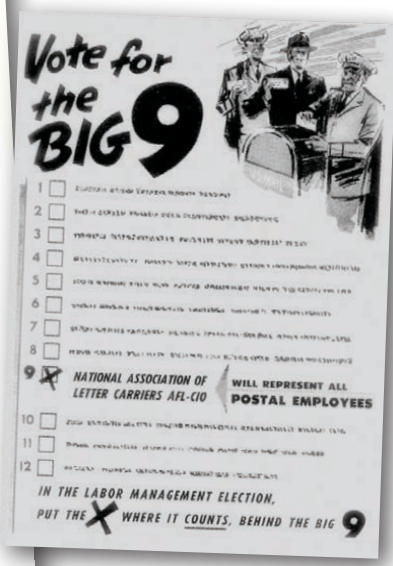
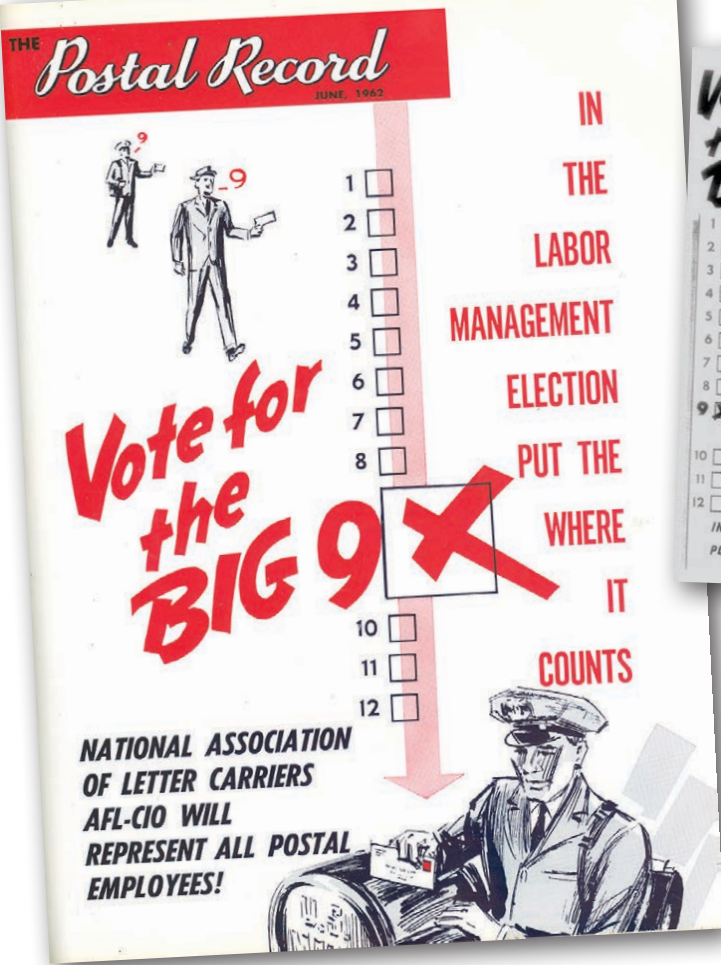
A ... is for adjudicate—to determine a case as a court

L ... is for last but not least—It is up to the discretion of the Postmaster. This one line nullifies all the provisions supposedly made for our welfare.

With few on-the-job protections, NALC mainly sought to advance its cause in the halls of Congress. Consequently, battles over employment relations really took place in congressional committees rather than at the negotiating table or on the workroom floor.

This system—or lack of one—came under increasing criticism during the late 1940s and throughout the 1950s, because it lagged behind the advances won by private-sector unions. In 1935, the Wagner Act established the legal right of most workers to organize or join labor unions and to bargain collectively with their employers. However, federal





NALC used *The Postal Record* magazine (l) and other advertising (r) to encourage all postal employees to vote for NALC to represent them.

The task force's findings led the president to sign Executive Order 10988 on Jan. 17, 1962. NALC President Bill Doherty called it the "Magna Carta for government workers," after

employees were excluded from the act. During the 1950s, NALC was joined by the National Federation of Post Office Clerks, the AFL-CIO (which had been formed by a merger in 1955), the American Bar Association, two Hoover Commissions and the National Civil Service League in calling for reform to allow federal workers to organize unions and bargain collectively. In the years since World War II, numerous legislative proposals to improve federal labor relations had been proposed, primarily due to the efforts of NALC and other postal unions, but these bills never were brought to a vote.

By the beginning of President John F. Kennedy's term in 1961, however, NALC's campaign for union recognition legislation was gaining ground. More than 20 union recognition bills were introduced in the House and the Senate early that year, and the Rhodes-Johnston Bill, providing for recognition and collective bargaining for federal employees, was on the verge of enactment.

President Kennedy, who had been

did not comport with his vision of how it should work. So, on June 22, 1961, Kennedy established a task force to study the issue. This effectively stopped any action in Congress.

In his memorandum calling for the creation of the task force, Kennedy wrote, "The participation of employees in the formation and implementation of employee policy and procedures affecting them contributes to the effective conduct of public business." He said that participation should be extended to representatives of employees and employee organizations.

After months of work, the task force issued its report on Nov. 30, 1961, stating, "A continuous history, going back three quarters of a century has established beyond any reasonable doubt that certain categories of federal employees very much want to participate in the formulation of personnel policies and have established large and stable organizations for this purpose. This is not a challenge to be met so much as an opportunity to be embraced."

a supporter of union recognition while serving as a senator from Massachusetts, feared that congressional action might foist a labor-relations system on the government that

the English document that established individual rights.

Executive Order 10988 set up an Employee-Management Cooperation Program in the federal government. The program officially recognized the legitimate role of unions in the formulation and implementation of personnel policies. It gave federal employees the right to join, form or assist labor organizations.

It established a three-tiered system of recognition: exclusive representation, formal recognition and informal recognition. For unions designated by a majority of employees in a unit, agencies would be obligated to negotiate over terms and conditions of employment with the exclusive representative, and to allow it to attend formal meetings.

In units without an exclusive representative, the agency would have to accord formal recognition to unions representing more than 10 percent of the unit and to "consult with such organization from time to time in the formulation and implementation of personnel policies and practices, and matters affecting working conditions that are of concern to its members." The agency also would have to informally recognize all unions, regardless of whether another union was the exclusive representative, and allow each union "to present to appropriate officials its views on matters of concern to its members."

From NALC's perspective, the most significant provisions of the order concerned representational rights.

Kennedy's order provided that a labor organization would gain "national exclusive recognition" once a majority of the employees in the appropriate "bargaining unit" chose the organization as its representative. The organization would then represent employees in grievance discussions and negotiate a national contract with management, though bargaining would exclude wages, hours and fringe benefits.

In compliance with the order, the Post Office Department conducted a nationwide representation election in June 1962. NALC ran a spirited election campaign, urging carriers to vote for the "Big 9"—since the union was randomly placed ninth on the ballot. More than 367,000 postal workers participated, and NALC led the balloting with more than one-third of the total votes cast. On July 1, 1962, six major postal unions were granted national exclusive recognition. For the first time in NALC's history, the union had the right to represent all city delivery carriers in dealings with postal management.

With no experience or background in collective bargaining on either side, NALC and the Post Office Department entered into their first negotiations in mid-October. Since Bill Doherty had retired earlier that year to become the U.S. ambassador to Jamaica, the new NALC president, Jerome J. Keating, led the NALC negotiating team. Five months later, on March 20, 1963, the first National Postal Agreement was signed.

After signing the agreement, Keating said, "Such triumphs are never instantaneous creations. They never spring complete and perfect from the brow of any individual. Years of campaign-

ing on the part of the postal unions preceded the events."

While the executive order was aimed at federal employees, it had tremendous effects for state workers as a model. In the *Journal of American History* in 2008, Joseph McCartin, a Georgetown University professor focused on labor history, wrote, "Over the course of the decade [1962-1972], twenty-two states enacted collective bargaining laws for government workers. These reforms prompted a wave of organizing by unions such as AFSCME and the American Federation of Teachers (AFT)."

NALC adapted swiftly to the demands of the new collective-bargaining environment. Three more national agreements were signed—in 1964, 1965 and 1966. However, during the course of negotiations in 1965 and 1966, a serious flaw in the order became apparent: There was no mechanism to compel the Post Office Department to reach an agreement—or honor one once reached.

The Post Office Department was required to consult and negotiate with NALC, but management retained its final decision-making authority. For example, all arbitration decisions were advisory rather than binding, and there were no provisions for the arbitration of bargaining impasses. In fact, the department could even disregard its prior commitments by claiming an "emergency situation."

Frustrated by this imbalance of power, a carrier in Fort Plain, NY, asked in 1965 in *The Postal Record*, "What good is the national contract when the Department can take away all these supposed rights at their whim? What kind of contract is it where one side does not have to live

up to its agreements if it does not desire?"

In 1967, President Lyndon B. Johnson appointed a committee to review Executive Order 10988 and the changes that had occurred since its signing five years earlier. The committee found that the order had proven beneficial to both agencies and employees. "The new policies have contributed to more democratic management of the workforce and marked improvement in communications between agencies and their employees," the committee reported. "Through labor-management consultation and negotiations, improved personnel policies and working conditions have been achieved in a number of areas."

Not everyone saw Executive Order 10988 as a positive development. Even recently, some conservatives have called for the order to be repealed as a way to reduce the strength of labor unions among federal employees. A letter to the editor of *The Wall Street Journal* published on June 7, 2018, asked, "Why should 2.2 million federal workers enjoy both robust civil-service job protection and union representation?" It called on President Donald Trump to rescind Executive Order 10988 and decertify the federal employee unions.

Despite its obvious limitations for letter carriers, Executive Order 10988 was a major step forward and provided NALC with progress in the exercise of negotiation and collective bargaining. But it would take a wildcat strike in 1970 to give NALC and the other postal unions the right to binding arbitration, which gave teeth to the negotiations for national contracts. That right is being exercised once again in 2020, as NALC bargains with USPS over a new national agreement. **PR**