

distinction the Truman program made between employees who are undesirable for security or loyalty reasons, and employees who are undesirable for other reasons must be erased. The State Department ought to dismiss the security risk and the "policy misfit" the same way it dismisses an employee who is habitually late for work. And, for public consumption, the Department ought to have a stock phrase covering all separations. (The Eisenhower Administration seems, in this regard, to be moving in the right direction. There is reason to suppose that many or all of the 1,456 security risks who had been discharged from executive agencies as of October 1953, were at the time of their separation camouflaged as "riffed" ["Reduction In Force"] cases; and thus, friends and associates of the dismissed employees attributed their separation to government economies. Whether this procedure is to be a permanent feature of the Eisenhower security program it is too early to say.)

But to erase the distinction at the *separation* stage is not to eliminate it altogether, since the security risk will have gone through certain screening procedures that the late-to-work employee has not. Indeed, by advocating that security experts monopolize the handling of security risk cases, we have retained an obstacle to the equalization of security cases and other cases. But we also propose that as early as possible in the process—at the instant the security experts have ruled that an employee should be separated—the risk should be "thrown" into a common channel with all other employees about to leave the Department for sundry reasons.

These proposals have a twofold advantage. Conscientious security personnel are more likely to execute a hard security program if *everything has been done to lighten the consequences for the separated employee.* They feel less tempted to indulge the "presumption of innocence" if they are no longer forced to adjudicate "guilt"; and if the public has no longer a reason to regard separation from a sensitive agency as evidence of such an adjudication. On the other hand, the plight of the separated employee is indeed mitigated.

There remains the argument that some persons deserve to have their reputations blighted: the community *should* be informed that the loyalty of a dismissed department employee was in question—so that he does not land an even more strategic position in American society than that which he has forcibly lost. And the idea that some people deserve to have their reputations blighted is, we be-

lieve, widely held. However that may be, we are better off leaving matters of judgment and retribution to Providence. The function of a security program is to get misfits out of government—not to persecute them.*

No doubt, the notion that a security risk ought to be exposed so that the community can protect itself is a notion of some merit. The point is that an adverse security finding should not be regarded as a positive proof of a man's displaced allegiance; and an adverse adjudication of a person's fitness for government employment is not and should not be regarded as a prejudice of his fitness for participation in normal community life. If we want the government to supply stricter standards in protecting itself than we are willing to incorporate into our jurisprudence generally, we ought to be satisfied to conclude nothing more from the dismissal of a government employee than that he is not qualified for the particular job he was holding.*

JOB SECURITY

The protests against the dismissal of government employees on loyalty or security grounds are becoming rare; and not because this is the callous "Age of Conformity," but simply because the public, including many Liberals, began to grasp the elementary fact that the national interest supersedes any individual's job privileges. But the public is not, it seems, prepared to come to the same conclusion about what we have called the "policy misfit," the government employee who gets in the way of the cold war because he holds attitudes and opinions that, however respectable, incapacitate him from contributing to the realization of current United States objectives.

One reason for this bias is clear: in our society, a man's job is deemed one of his most precious possessions. The fact that "job security" has been the underlying theme in one national election campaign after another shows how zealously Americans look upon their job "rights." The passionate attachment of some civic organizations to the idea of a permanent and professional career service in government indicates the same tendency. Nor do we ourselves

* The solicitude proper in most classes of security risks is, of course, not indicated when a man has committed espionage or has perjured himself. But such a man is the proper concern of the Justice Department—not the State Department.

wish to appear indifferent to the need for a professional civil service—a career that able young Americans can enter with confidence.

But the essential question is not whether there should be a professional and permanent Civil Service, but whether, in our determination to achieve such a service, we have defeated our own purposes by giving government employees (a) a kind of job security that few others in our society enjoy, (b) a kind of job security that goes far beyond what reason can justify, and (c) a kind of job security that undermines rather than enhances the efficiency and the professionalism of the civil service. Therefore the question is worth asking why government workers should not be treated the same way the community treats other clerical and professional workers. Why should government jobs not be related to the legitimate day-to-day needs of the consumers of government (i.e., the electorate), just as other jobs depend on the day-to-day consumer needs as expressed in the marketplace? Indeed, in discussing the legitimacy of discharging governmental misfits, the burden would seem to lie not on those who would do away with special protection for the government employee, but on those who would grant him extraordinary privileges.

Seventy years ago, the authors of the Civil Service Act advanced persuasive arguments in behalf of security of tenure for the government employee. Civil servants, they said in effect, are in a different category from other employees in that they can discharge their obligations to their *ultimate* employers only if they stand in a peculiar protected relationship to their *immediate* employer. Their ultimate employers are the nation; but their immediate employer, for whom they perform the manifold clerical, managerial, and administrative functions involved in the implementation of policy, is the political party in power. And the latter depends upon patronage as a means of obtaining and maintaining political advantage. Thus, if left to its own devices, the immediate employer will act as though the primary qualification for government employment were party loyalty rather than competence; and as a result, employees who cannot meet this requirement will, with each incoming Administration, be discharged—to the great injury of the nation. If, then, the interests of the ultimate employer—the nation—are to be given first consideration, the power of the immediate employer (the political party in power) to discharge employees must be restricted. The solution to which all this points, so the argument runs, is to draw persons of demonstrated profes-

sional competence into the Civil Service and guarantee their tenure.

But this rationale, it will be seen if we recall where the argument started, rests on the assumption that civil servants are not involved in policy but merely perform routine functions. The conclusion to which it leads is, therefore, no better than the assumption; or at least can be applied only where the assumption is valid. Where the responsibilities of a government employee carry him into the policy-making area, the whole argument fails. Permanent tenure for such an employee invites a situation where policies repudiated at the polls by the "ultimate" employer live on forever in the departments.

If things had worked out in, say, the State Department, as our legislators of seventy years ago expected them to work out, policy would be made, exclusively, by the Secretary and his principal assistants, none of whom is a member of the Civil Service or the Foreign Service. But policy is often made and inevitably influenced at much lower levels, and therefore by career personnel. Policy is made by an Edward Posniak, putting the case for Communist Czechoslovakia before a Department liaison committee; or by Oliver Edmund Clubb, drafting memoranda for the Secretary that reflect not only the knowledge and experience in virtue of which Clubb was chief of the China Desk, but also his views on Communism and the future of China. Posniak's and Clubb's personal views are the more likely to influence policy because they are assumed to speak out of *expertise* rather than partisan persuasion. The modern business of the State Department is, in a word, of such character that the traditional line between policy and routine function is difficult if not impossible to draw.

Worse still, many U. S. civil servants are no longer expected, and no longer try, to maintain the attitude of policy impartiality that the traditional view called for. In an era of passionate ideological tensions they become, unavoidably, militant defenders of particular policies. George Kennan, for example, was an "impartial" Foreign Service Officer when his name stood for the Policy of Containment. John Stewart Service and John Carter Vincent were not, in theory, policy makers, yet they supported an identifiable policy toward China; if they were still in the Department, it is clear that they would find it difficult to make common cause with the Eisenhower Administration. Charles Bohlen, also a "career man," is known as a defender of the Yalta Agreement to such an

extent that several Senators had legitimate doubts about his ability to serve as Eisenhower's Ambassador to Soviet Russia.

That "it works in England" is no answer at all. British civil servants are far more careful than ours to maintain attitudes of, and a reputation for, impartiality and, in fact, indifference in policy matters. The British foreign officer seems competent and willing, one day to draft measures designed to implement a Conservative government's policy of holding on to India, and the next day, to draft for a Labor government the measures by which India may be turned over to the Indians. It may be desirable that State Department employees act in the British way and acquire the British skill of repressing or avoiding strong convictions. The point is that American civil servants do not do this. And they cannot expect to have it both ways: to act as policy-makers from day to day, and to be treated as impartial janitors when another party comes to power.

Obviously, an incoming administration should be forced, by insistent pressure from public opinion interested in preserving the Civil Service, to go as far as is consistent with its mandate in avoiding the evils of the spoils system. But there is a transcendent commitment postulated in the American philosophy of government: the premises of democracy demand that the electorate be entitled to employ civil servants who will execute policies the electorate wants undertaken. And the premises of republicanism insist that an administration holding the popular mandate must have the authority to implement that mandate.

This is not to suggest, by any means, that the State Department should embark on a wholesale purge of its personnel after each national election. The great majority of Department employees are undoubtedly flexible or dispassionate enough to carry out, most faithfully, the policies of any American administration. But those who are seriously committed to a particular policy must no longer claim tenure immunity.

A final point: all present civil servants are parties to an implied contract that their employment will not be terminated except under standards which were in effect at the time they got their jobs. Thus, and without doubt, compensation is in order for those who are to lose their jobs because the standards have changed: the government must be prepared to make generous financial provisions for employees dismissed under the new security program, and payments from the government should not cease until the em-

ployee finds a new job, with comparable economic return, elsewhere in the community.

It is perhaps not necessary to discuss, in detail, administrative minutiae of the security program we have in mind. But we owe a general indication how it would work in the State Department should the quasi-judicial loyalty-security boards be abolished and should the Department's security office handle "security risks" and "policy misfits" solely from the point of view of the government's interest.

1. The preliminary advisory decisions as to whether a State Department employee is a "security risk" or a "policy misfit" would be made, respectively, by the security and the policy-making officers of the Department. The final decision on security cases would be made by the chief security officer of the Department, on "policy misfits" by the Secretary of State or his designee.

2. The men who make the preliminary determination should be qualified by expert knowledge of both Communism and of current Department policy. Their up-to-date conversance with the latter would, of course, be assured only if they received regular briefings from area offices.

3. Data on security cases would be supplied by the FBI, by Department investigators, and by other investigative agencies; and, as is the current practice, the discovery of any derogatory data would warrant the attention of the security office. On "policy misfits," the data would be furnished by the relevant Assistant Secretary. The decision as to whether a policy case should be called to the attention of the security office would be made with reference to the decisive standard—namely, is there a reasonable doubt that the employee is capable of working effectively on behalf of the resolved Department policies?

4. If, having given the benefit of every doubt to the government, the security officers conclude from the available information that the person involved may be an "undesirable" from either the security or the policy standpoint, they would notify the employee of this fact and of the specific reasons which prompted their decision. The employee should then appear for an interview. In security cases, suspension of the employee should follow automatically upon preferment of charges.*

5. The employee would be invited to submit to the security

* This is the recent Department practice.