developed principles of agency adjudication coupled with a procedure for obtaining legal counsel from the agency on the interpretation of the law.[792] Nor was the language overbroad, continued the Court, because it "proscribes only that public speech which improperly damages and impairs the reputation and efficiency of the employing agency, and it thus imposes no greater controls on the behavior of federal employees than are necessary for the protection of the government as an employer. . . . We hold that the language 'such cause as will promote the efficiency of the service' in the Act excludes constitutionally protected speech, and that the statute is therefore not overbroad." [793]

Pickering was distinguished in *Connick v. Myers*,[794] a case involving what the Court characterized in the main as an employee grievance rather than an effort to inform the public on a matter of public concern. The employee, an assistant district attorney involved in a dispute with her supervisor over transfer to a different section, was fired for insubordination after she circulated a questionnaire among her peers soliciting views on matters relating to employee morale. The Court found this firing permissible. "When employee expression cannot be fairly considered as relating to any matter of political, social, or other concern to the community, government officials should enjoy wide latitude in managing their offices, without intrusive oversight by the judiciary in the name of the First Amendment." [795] Whether an employee's speech addresses a matter of public concern, the Court indicated, must be determined not only by its content, but also by its form and context.[796] Because one aspect of the employee's speech did raise matters of public concern, *Connick* also applied *Pickering's* balancing test, holding that "a wide degree of deference is appropriate" when "close working relationships" between employer and employee are involved.[797] The issue of public concern is not only a threshold inquiry, but, under *Connick*, still figures in the balancing of interests: "the State's

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[792] Arnett v. Kennedy, 416 U.S. 134, 158–64 (1974).

[793] 416 U.S. at 162. In dissent, Justice Marshall argued: "The Court's answer is no answer at all. To accept this response is functionally to eliminate overbreadth from the First Amendment lexicon. No statute can reach and punish constitutionally protected speech. The majority has not given the statute a limiting construction but merely repeated the obvious." Id. at 229.

[794] 461 U.S. 138 (1983).

[795] 461 U.S. at 146. *Connick* was a 5–4 decision. Justice Brennan wrote the dissent, arguing that information concerning morale at an important government office is a matter of public concern, and that the Court extended too much deference to the employer's judgment as to disruptive effect. Id. at 163–65.

[796] 461 U.S. at 147–48. Justice Brennan objected to this introduction of context, admittedly relevant in balancing interests, into the threshold issue of public concern.

[797] 461 U.S. at 151–52.