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The Government as Employer
Le gouvernement-employeur

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Résumé de l'article

Pour les fins du présent travail, je me limite aux employés civils, au nombre de 140,000, qui relèvent de la Loi du service civil et qui tombent sous la juridiction de la Commission du service civil.

A toutes fins pratiques, on peut dire que le service civil proprement dit a pris naissance officiellement en 1868 avec l'adoption de la première loi du service civil. Jusque vers la fin de la première guerre mondiale, cependant, il n'y eut pas de véritable organisme chargé d'élaborer et de coordonner les politiques administratives du gouvernement dans ses relations avec son personnel. C'était le règne du patronage.

En 1918, le gouvernement de coalition décida de placer le service civil extérieur (en dehors d'Ottawa) sous le contrôle de la Commission du service civil. Cette commission reçut alors le statut qu'elle a conservé jusqu'à aujourd'hui. Elle est devenue une institution qui relève théoriquement du seul Parlement, mais la nomination de ses membres est une prérogative du gouvernement.

Le gouvernement fédéral est incontestablement le plus gros employeur au Canada, surtout si l'on ajoute aux quelque 140,000 fonctionnaires proprement dits environ 350,000 soldats et membres des forces policières. Normalement, on pourrait s'attendre qu'un tel employeur ait des idées claires et adopte des procédures définies dans ses rapports avec ses employés, mais il n'en est rien, car le gouvernement a plutôt une forte propension à recourir aux expédients.

Les organismes qui ont affaire au personnel sont le Bureau du trésor, la Commission du service civil et les divers Ministères. Les pouvoirs du Bureau du trésor en matière de finances lui donnent en fait une influence prépondérante, car même si c'est la Commission qui propose, c'est le Bureau qui dispose. Ce dualisme est une source constante de conflits, de délais, de frustration et d'inefficacité.

Depuis 1918, l'attention publique n'a jamais été alertée par des cas de patronage résultant de pressions de politiciens, mais on n'a pas suffisamment tenu compte du patronage interne qui s'y pratique et qui, à certains points de vue, est pire que l'autre.

La Commission du service civil doit remplir les fonctions suivantes: a) préparer des règlements concernant les conditions de travail; b) classifier les tâches, faire passer les examens aux candidats, désigner les titulaires à divers postes, etc.; c) faire des recommandations au gouvernement au sujet des salaires. Dans l'exercice de cette dernière fonction, la Commission est forcément limitée aux suggestions qu'elle considère acceptables par le gouvernement.

La Commission est formée d'un président et de deux autres membres. Traditionnellement, l'un de ces deux membres est un Canadien français et l'autre est une femme. Ils sont nommés pour dix ans. Les commissaires sont assistés par des experts.

En pratique, l'indépendance de la Commission est compromise par ses contacts quotidiens avec le gouvernement. Elle est généralement considérée par les fonctionnaires comme un instrument de l'employeur, ce qui d'ailleurs est rigoureusement exact.

Ce qui complique encore les choses, c'est que les directives de la Commission, dont le but est de produire une certaine uniformisation des conditions de travail, sont interprétées et appliquées de différentes façons dans les divers Ministères. En fait, beaucoup de fonctionnaires sont convaincus que le patronage politique a été remplacé par le patronage à l'intérieur des Ministères.

En 1944, au cours de la deuxième guerre mondiale, le gouvernement a décidé d'appliquer aux relations avec ses employés la formule des comités mixtes de production qui donnait de bons résultats dans l'entreprise privée. Le gouvernement est représenté à ce Conseil national par 10 personnes, lesquelles ont habituellement rang de sous-ministre, et les employés sont représentés par dix officiers de leurs associations. Les délibérations ont un caractère confidentiel. Tandis que les représentants du gouvernement sont libres de communiquer avec leurs supérieurs, les délégués des associations d'employés doivent au contraire prendre des décisions à leur propre compte. Comme dans le cas des comités mixtes de production, les questions relatives aux salaires sont en dehors de la compétence du Conseil national.

Les associations d'employés civils peuvent travailler de plusieurs façons en faveur de leurs membres. Elles présentent parfois des mémoires, elles ont recours à la presse et à leurs propres publications, elles tiennent des réunions publiques et enfin, parfois, elles assistent des individus qui intentent des poursuites en justice.

En pratique, c'est le gouvernement qui fixe les conditions de travail. Il n'y a pas de négociation collective, ni généralement de consultation. Le gouvernement adopte une attitude paternaliste à l'endroit des associations d'employés et ne leur reconnaît aucun statut légal.

En 1957, par suite d'énormes pressions, le gouvernement a accepté d'organiser un service de recherches dans le but d'établir la relation entre les tâches du service civil et celles de l'entreprise privé. Il s'agit encore d'une décision unilatérale. On semble vouloir accepter que les fonctionnaires soient traités aussi bien que les employés de l'entreprise privée, mais il y a encore beaucoup de chemin à parcourir avant d'atteindre cet objectif.

Le plus surprenant, c'est que le gouvernement soit si lent à adopter une politique avancée dans ses relations avec les fonctionnaires, et qu'il soit si prompt à faire oeuvre de pionnier dans d'autres domaines. Lorsqu'il s'agit des conditions de travail, le gouvernement fait figure d'employeur rétrograde, lui qui bat la marche et ouvre la voie dans beaucoup d'autres secteurs.

En définitive, tant que le gouvernement n'aura pas établi avec ses employés un système de négociation collective, on pourra lui reprocher de ne pas faire lui-même ce qu'il enjoint aux autres. Il ne suffit pas d'obliger les autres, par la loi, à bien se comporter: il faut que l'État lui-même, en tant qu'employeur, sache prêcher d'exemple.

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The Government as Employer

J. C. Best

The author makes a brief historical review of government policy in relation to civil service employees. He then analyses the structures and functions of those bodies which are involved in personnel administration on behalf of the Federal government. The employee organizations are also taken care of by the author. Finally, there is a description of the relations between the two groups and an estimate of their achievements. The author concludes that the Government should decide, in co-operation with its organized employees, to work out a system of bargaining or negotiation.

INTRODUCTION

Employer-employee relations in the Government Service have not, by and large, held much attraction for students of industrial relations. The comparatively slender bibliography of written material on the subject constitutes a hardship to those interested in studying the problems of Government employees. * There is not one authoritative up-to-date book on the subject currently in print; although I believe that this deficiency may be remedied in coming months.

Perhaps this is basically the fault of the Public Service itself. It would seem that our tradition of silence has been carried to an illogical extreme. Therefore the opportunity to present this paper ** may help to open the way to a wider interest in the problems of employer-employee relations in the Government Service.

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To fully appreciate the problems involved one must first look at what constitutes

* *Relations industrielles — Industrial Relations* (Vol. 15, No. 2, April 1960) published an article by Professor Gosselin: « Le gouvernement-employeur et le syndicalisme ».

** McGill Conference in Industrial Relations, 1960.

the federal public service. There is much confusion in the public mind as to both the composition and extent of the federal public service. The growth in numbers of the various boards, agencies and commissions as well as of proprietary crown corporations has served to add to this confusion.

Briefly, the Public Service encompasses classified civil servants, hourly rated manual workers (prevailing rate of pay employees), ships officers and crews, officers of the penitentiary service, employees of many boards, commissions and agencies, employees of Parliament and members of the judiciary. It has even been suggested that members of the armed forces and the R.C.M.P. could be included in the definition of the public service.

Excluded from this group are the employees of the Canadian National Railways, Trans Canada Airlines, the Canadian Broadcasting Corporation, Polymer Corporation and other Crown-owned corporations which are essentially commercial in nature. The employees of most of the latter come under the provisions of the Industrial Relations and Disputes Investigations Act. The Government, in effect, is only indirectly the employer.

For the purposes of this paper I intend to confine myself exclusively to the problems of Government as employer as related to the classified civil service: those 140,000 people who come under the Civil Service Act and are subject to the jurisdiction of the Civil Service Commission. That is to say the largest group excluded from the provisions of the Industrial Relations and Disputes Investigation Act by Section 55 of that Act.

HISTORICAL

To fully understand employer-employee problems in the Government Service we must also look at its historical development. The most important period of evolution, insofar as the establishment of the basic character of the Service is concerned is the period between 1868 and 1918 when the merit principle of appointment and advancement was finally accepted by Parliament.

It has been facetiously suggested that the first Civil Servant, once he had established his office and adjusted his eye shade, immediately

began to arrange to have his 10:15 a.m. coffee brought to him from the lunch counter right around the corner from the Garden of Eden. The basis of this suggestion is that the Civil Service is one evil that burdened the public even before Eve discovered the apple.

History, unfortunately, does not specifically record the name or occupation of the first Civil Servant, but I believe it would be fair to assume that he commenced work, if not before, then at precisely the moment the first rudimentary form of Government was established. (It would also probably be a fair assumption that this man was a tax collector.)

The history of our Civil Service between 1918 and the present has been basically administrative and my other remarks on various aspects of Government employment will by inference cover the history of that period. This brief historical review will deal only with the period between 1868 and 1918.

Government employees, have existed in one form or another in Canada since the first established colonial settlements. For the purpose of this paper, however, we can assume that the civil service proper, as we know it today, had its legal beginning with the first Civil Service Act of 1868.

This first rudimentary legislation established the « inside » civil service and set up a rather elementary classification system. Members of the « inside » civil service come under a Civil Service Board consisting of the fourteen deputy heads of the existing Departments who were empowered to make regulations and hold examinations. Despite a Royal Commission Report in 1860 which recommended re-organizing employees outside of Ottawa (the « outside » civil service) they remained under the direct control of the Governor-in-Council.

This early attempt to establish a career civil service was not too successful. « The Act of 1868 allowed exceptions from its provisions and soon exceptions became the rule. Appointments were made without regard to age limits, health or character, or the qualifying examination and the Civil Service Board was powerless. Political appointments to higher posts became common... » [1]

(1) C.J. HAYES, London 1955, *Report on the Public Service Commission, British Commonwealth Countries*. Page 81.

In the fourteen years between the 1868 Act and 1882 our embryo civil service underwent four investigations. In 1882 another Civil Service Act was passed which was little, if any, improvement over the other and by 1891 the loss in efficiency and discipline had become so flagrant that the House of Commons was forced to appoint a Committee to investigate conditions.

At the same time another Royal Commission with much the same terms of reference as the 1869 one was appointed. This Commission's investigation revealed many irregularities and illegal practices. The Royal Commission drafted a Bill which proposed the establishment of a new Civil Service Board with a permanent Chairman and four deputy heads on a part-time basis with power to recruit and promote, and to inquire into the management of Departments and the official conduct of civil servants. The draft Bill also proposed that the Board would report annually to Parliament.

Parliament did not accept all of these recommendations. It did not set up the Civil Service Board and an Act passed in 1891 amended the other recommendations so extensively that they were feeble in the extreme. One writer has described the period between 1891 and 1907 as basically one of patronage, abuses, irregularities, and illegal practices. These were possible because of the general attitude of the Government which was typified by the Minister of Finance of the day who told a Privy Council Committee in 1907 that the principles of the Act were « satisfactory » though its operation needed inquiry. (To those familiar with the jargon of Government this will be interpreted as a frank admission that all was far from well.)

By this time, however, the situation had deteriorated to such a degree that despite this official attitude of complacency it became obvious that action had to be taken. A new Civil Service Act in 1908 established a Commission with two full-time members of deputy minister rank, holding office during good behaviour and removable only by the Governor-in-Council or on a joint address by both Houses of Parliament. Describing this new Act Hayes notes:

> « The Act reclassified the inside service in three divisions and required competitive examinations for entry to most posts; it also imposed a ban on political activities by civil servants. In practice, however, the Commission could do little but hold the entrance examinations; the patronage system survived and flourished in promotions and in many appointments which were soon taken out of the Commission's control by

Parliament; and the existing abuses, privileges, and anomalies remained. The Commission had no power over the outside service, in spite of a Royal Commission in 1912 which recommended that the whole dominion service should come under it. » [2]

These events set the stage for the passing of the present Civil Service Act which has remained a model of civil service legislation based on the merit principle. The coalition Government of 1918 placed the outside civil service under the control of the Civil Service Commission. Together with other sweeping improvements this new Civil Service Act established the Civil Service Commission as we know it today; appointed by the Government and in law and theory subject only to the will of Parliament, and recallable only by joint address of the House of the Commons and Senate. This Act, with relatively few amendments, has operated until the present day. [3]

A new Act, incorporating certain changes, but professing to preserve the basis of the old Act has been introduced in the House of Commons and will be studied and debated at the coming session of Parliament. [4]

The Government As Employer

The Government has many identities. Perhaps the least known and understood in the public mind is that of an employer. The extent that the Government is directly or indirectly an employer is not really comprehended by the public at large despite the heavy costs to them as taxpayers.

If we include the armed forces, the Royal Canadian Mounted Police and the whole of the public service as defined, the Government is the employer of nearly 500,000 Canadian citizens. Considering the size of our labour force this is a considerable proportion of the whole. Needless to say the Government is by far the biggest single employer in the

(2) C.J. HAYES, *Op. Cit.*, page 82.

(3) Since 1918 few amendments to the Act have been made. Even during the difficult war years when certain flagrant weaknesses were obvious methods other than amending the Act were adopted. This reluctance to change the law as needed is a cause for concern since no legislation, regardless of its original merit, should be allowed to become obsolete because it has assumed the sacrosant status of a sacred cow.

(4) A Short history of the Civil Service also appears in Taylor Cole's book *The Canadian Bureaucracy*, pages 10 to 12.

country, yet in relation to its other identities and functions the Government treats its role as an employer as a relatively minor one.

It would be fair to assume that such a large employer would have clearly defined personnel policies and procedures. Such is not the case. The basic characteristic of the Government in employment matters has been a strong tendency toward expediency. This approach toward such a large body of employees is questionable especially when the vital nature of the functions performed is considered.

The classic stylized picture of the civil servant has long since disappeared. The pinch-faced, ultra conservative clerical employee watched over by a beaucratic, striped-trousered chief is about as common today as the horse and buggy be used for transportation.

Today's civil servant may be a scientist, a lawyer, a skilled technician, a clerk or a craftsman. Every job classification found in industry can be found in today's civil service as well as many more found solely in the Government service. The Government service is the one sector of the economy that effectively controls the economic life of the nation. Any major breakdown or cessation of activity of or by the civil service could effectively cripple the country commercially and politically. This is quite contrary to the fictitious but popular idea that civil servants are a form of parasite, paid too much for too little work.

Considering the positive factors involved it is indeed strange that the public can remain so basically indifferent to the whole concept of the Government's role as employer. What is an even greater cause for concern is the indifference in higher political circles reaching right to cabinet levels. Indifference to legitimate requests from the organized Civil Service has too often characterized employer-employee relations in federal jurisdiction. We lack the deep seated tradition that to serve the state is an honour found in Great Britain.

PERSONNEL ADMINISTRATION

Since the Civil Service is a creation of the state its administration is carried out under certain laws of Parliament by certain of its agencies. The principal piece of legislation governing Government employees is the Civil Service Act. Next in importance to the employee is the Public Service Superannuation Act, first passed in its basic form in 1924, and

substantially amended in 1954 and 1960, and the Financial Administration Act of 1951.

The principle control and directing agencies are the Treasury Board, the Civil Service Commission and the various Departements. While it may not acceptable to those who expound the theory of a Civil Service Commission, the Treasury's control in financial matters automatically means that its influence on personnel affairs is always more dominant than that of the Commission. The Commission may propose, but in the final analysis, the Treasury's strong financial control puts it in a position to dispose.

There are various consultative committees associated with government personnel administration. Some are composed entirely of « management » representative and others are joint management-employee committees. Basic characteristic of all of these committees is that they have the power of recommendation only. The more important of these are the Pay Research Advisory Committee, the Superannuation Advisory Committee and the National Joint Council.

TREASURY BOARD

Despite our polite bows toward Parliamentary supremacy in all matters of Government; under our system administrative control is firmly in the hands of the Cabinet and Prime Minister. This is as true of personnel administration as it is of other areas of administration. As the most powerful and important Committee of Cabinet the Treasury Board and its staff are deeply involved in personnel administration. Both before and after money is voted by Parliament, Treasury Board has on influence on all personnel policies proposed by the Civil Service Commission that will result in the expenditure of public funds. No matters how minor the policy proposed it must be acceptable to Treasury Board either directly or indirectly before it can be introduced. The result is, of course, that progress in personnel administration is inextricably tied to fiscal expediency. Generally speaking progress has not fared too well in competition with Treasury Board attitudes.

Writing in the Canadian Journal of Economics and Political Science in February 1959, S.J. Frankel of McGill made the following observation:

> « The division of authority and responsibility between the Civil Service Commission and Treasury Board was thoroughly examined by the

> Royal Commission on Administrative Classifications in the Public Service, 1946. One of its most important conclusions was: « The division of duties is the outstanding weakness in the central direction and control of the service and must be eliminated. Central financial control there must be. Otherwise there will be uneconomical use of public money. Financial control without the direct and simultaneous duty to determine requirements and to provide the necessary means for effective operation leads to delay, frustration and inefficiency. » [5]

Frankel points out that is was during the depression years of the 1930's that the creeping tentacles of Treasury Board and its Staff were fully entwined into personnel administration to such an excessive degree. Through a series of minutes and staff control regulations the Board intruded itself deeply into matters of organization and scale of pay. The Commission has never been able to resume the true function envisaged for it in the Civil Service Act.

While it is recognized that expert knowledge in these matters lies with the Commission, the ultimate power of decision is with Treasury Board, and other exigencies may mean that regardless of how well considered or expert the Commission's recommendations are, they may be rejected or changes suggested simply because their financial implications are more than the Board is prepared to consider. In effect the Commission has « responsibility without power and Treasury Board has the power but not the responsibility for Civil Service matters ».

THE CIVIL SERVICE COMMISSION

The basic philosophy behind the establishment of a legally independent Commission to control appointment to, and advancement within the Civil Service was well-expressed many years ago by a Select Commons Committe which said:

> « As a general principle, appointments, promotions and the whole management of the Service should be separated as far as possible from political considerations. The Service should be looked upon merely as an organization for conducting the public business, and not as a means of rewarding personal political friends. »

This theory, embodied in the Civil Service Act as the merit principle has guided all Commissions, to a greater or less degree, since 1918.

(5) S.J. FRANKEL, « Staff Relations in the Civil Service », *The Canadian Journal of Economics and Political Science*, Vol. XXV, No. 1, Feb. 1959, pp. 11-22.

In fact it may well be that Commissions have been so concerned at possible political favouritism from Parliament Hill that they have not paid sufficient attention to internal politics among administrators which, from a staff viewpoint is an even greater evil. Internal patronage can be hidden whereas the political kind must sooner or later come to the public's attention.

The Canadian Civil Service Commission has three major roles. Under the law it has the responsability for laying down regulations on a wide variety of working conditions. It is also responsible for the organization, appointment, classification, and examination functions. Lastly it advises the Government on pay and other personnel problems. Because of this latter role the Commission can only be truly independent in matters of recruitment. Wherever money enters into the picture the Commissioners must therefore pay careful attention to what they feel the Government will accept.

The Civil Service Commission is composed of a Chairman and two other Commissioners. While under the law the three Commissioners are equal in status the fact that the Chairman is in a position to cast a deciding vote gives him a position of importance that cannot be disregarded. If the Chairman also has a strong individual personality he will be able to exert a greater influence and authority over his colleagues than is readily apparent.

Custom has always dictated that one member of the Commission must be French speaking. A new custom was also introduced in recent years with the appointment of a woman as a Commissioner. Commissioners are appointed for a term definite of ten years, and are subject to recall only on a joint address to the two Houses of Parliament. However, from the very practical viewpoint of reasonable operation it is doubtful that any Commissioner who had incurred the active displeasure of the Government of the day would be long able to do his or her job. As indicated later it is necessary to their work that a modus vivendi between the Commissioners and the Government exist.

The Commission also has a staff of specialists in various fields. There are pay determination specialists, research officers, classification specialists, organization and methods analysts, examiners, and all the galaxy of experts that has grown up in personnel administration.

The degree of independence is also conditioned by the fact that the day-to-day relationships between the Commission and the Government

is such that the degree of its independence is less in practice than in law.[6]

Whatever its position vis-a-vis the Government the Commission is generally and with good reason regarded in the service as an arm of management. For the most part its functions are managerial and, in dealing with staff organizations it speaks (quite properly) as a representative of management. (One of its members for example sits as an official side member of the National Joint Council). The Commission may be independent but in the field of employer-employee relations it does not occupy neutral ground.

Furthermore, as far as salaries and conditions of employment are concerned, the Civil Service Commission has not the power to make decisions binding on the Government. It has a clear-cut responsibility to make recommendations but these are not made public. The employees do not know what takes place except by rumour or indirect information. It is not surprising that the associations tend to regard the Commission principally as the Government's personnel agency, and not the autonomous agency that it wishes itself to be considered.

This is not to imply for a moment that there is anything wrong with the concept of a Civil Service Commission. In the fields of appointment, promotion, classification, training, etc., a strong Commission, unafraid to exert its authority can do much. However, in the economic areas of employer-employee relations it is, to the employee, a severe handicap and a road-block to successful negotiations.

THE DEPARTMENTS

It is at the Departmental level that the first line of employer-employee relations is drawn. While the Commission and Treasury Board make rules and regulations Departmental administrators must interpret and apply them. Personnel management at the Departmental level varies from excellent to atrocious. The majority fall, I would say, in the average to mediocre category.

(6) It should be noted, however, that the Commission recently refused to alter its 1959 salary recommendations and forced the Government alone to take the responsibility. Such a show of independence augurs well for the future.

The administrator at the Departmental level has a job to get done. His own future career depends on how well he does it. Too often the employee is in the middle and perforce suffers.

The principle of a central authority (the Commission) to make rules and regulations, to classify and appoint uniformly throughout the service is often abused at the Departmental level. Departmental personnel authorities must interpret this mass of regulations and their interpretation and application often vary from Department to Department.

The personnel function in the Government service is relatively new. In the original development of personnel divisions many mistakes were made that only now are being corrected. Some top-level administrators unfortunately feel that personnel policy and administration is of secondary importance to their line responsibilities.

It is at the Departmental level that the greatest dangers to the merit principle exist. Many civil servants feel that all promotions are rigged and that departmental patronage has replaced political patronage.

This is only true to a degree. How extensive is difficult to assess. It is natural that those who are unsuccessful will look for some other explanation than their own inadequacies. Yet irregularities do occur and more could be done by departments and the Commission to stamp these out.

THE NATIONAL JOINT COUNCIL

In 1944 the Government of the day announced the creation of a body to be known as the National Joint Council of the Public Service of Canada, or as it is known throughout the Service the N.J.C.

N.J.C. was the Government's answer to the demand for something to replace or supplement direct representation from the employees. It was an extension to the Government service of certain ideas regarding « industrial democracy » and « industrial co-operation » which had grown up between the two World Wars. One writer has described these as being « vague ideas that could be mouled to fit almost any set of principles or prejudices . . . ».

The experiment with Whitleyism in the British civil service provided a model for Canadian Staff associations to use in demanding greater consultation on working conditions.

The Minister of Finance of the day, in announcing the establishment of the Council said:

> « The Council will, of course, not have any executive powers which would impair the responsibility of the Cabinet or Treasury Board or Civil Service Commission, or possibly infringe upon the authority of Parliament. While the Council's functions will be advisory only, it is clear that if both sides take their responsibilities seriously and endeavour to make the new organization a means of promoting better understanding, improved morale and greater efficiency in the Civil Service, any recommendations of the Council reached by agreement should carry great weight with the Treasury Board and the Civil Service Commission. » [7]

The Council is composed of the Official and Staff Sides. Official Side representatives are drawn mainly from the Deputy Minister or Assistant Deputy Minister level and are 10 in number. Staff Side representatives are drawn from the major national associations and number 13.

The two « sides » first hold separate meetings to discuss business before the Council and then come together in full Council to compose views and attempt to arrive at an acceptable compromise. The Chairman is appointed by the Government and the Vice-Chairman is always the Chairman of the Staff Side.

The Council's secretary is a senior civil servant who has other duties and is not a full-time officer of N.J.C.

From a staff viewpoint the Council has a number of shortcomings Without elaboration these are:

1. It is advisory only and its recommendations are subject to rejection.
2. The Government is, in fact, in a position to control the recommendations coming from Council.
3. The requirement that all recommendations must be the unanimous viewpoint of both Sides is a factor inhibiting progress.
4. The time required to implement NJC recommendations has been excessive.

(7) *House of Commons Debates*, February 24, 1944, p. 778.

5. The system contributes to Staff Sides impatience and causes them to take matters out of NJC in favour of more direct representations.
6. All proceedings are confidential and Staff Side representatives must often make decisions in a vacuum from those they represent. (It should be noted that Official Side people are always free to consult their political superiors.)
7. The Council Constitution has been interpreted to mean that salary and wage problems are ultra vires of its terms of reference.

These faults of organization and operation do not mean that there is not a role for a consultative body similar to NJC, but *not* as the only formal means of employee-employer negotiation. The slender record of NJC accomplishments probably does not indicate its major value, and that is as a sounding board and meeting place for the exchange of ideas between the senior civil service and senior executive officers of the staff associations. Future development of the Council should attempt to emphasize this aspect and disregard the fiction that it is in any way a satisfactory method of establishing working conditions through mutual discussion.

Employee Organizations

Having described the employer side it is now necessary to look at the employee organizations before any evaluation of the Government as an employer can be made. If the plethora of administrative and control agencies on the management side is confusing, the « jungle » of employee organizations in the Federal service also defies comprehension.

Organization is not at all new to the Civil Service. The first organization was formed in 1889. As in many countries postal employees were the first to organize but the idea of uniting soon spread to all other areas of the service. For most of the period since they were organized the associations have not acted in any manner like industrial trade unions. At the moment, while there are some Associations which are blatant in their demands for full industrial type bargaining and all that it implies, the vast majority seek some middle road as a means of resolving their differences and establishing effective negotiating procedures.

It would seem that in the highly centralized personnel arrangement existing in the Government service, logic alone would demand that organization too would be highly centralized. Such is far from the case.

Organizational competition is, to say the least, keen. There are two major theories of organization. One, as represented by the Civil Service Federation of Canada, promotes the idea of departmentally oriented associations coming together on overall problems in a loose federation. The basic theory of such an alignment is that each of the constituent parts must remain wholly autonomous and free operate internally without any interference from the parent federation.

The other theory is that since there is actually only one employer there should be only one unitary organization. This is the theory upon which the Civil Service Association of Canada (and its predecessors the Civil Service Association of Ottawa and the Amalgamated Civil Servants of Canada) is based.

The third major group conforms in organizational philosophy to the CSAC in that it accepts members from all Governmental departments. However, the Professional Institute of the Public Service of Canada restricts its membership to those having a University degree or its equivalent, and employed in « professional » categories.

The Civil Service Federation is made up of some 16 national departmental associations, and 120 rather nebulous organizations called direct affiliates. Total membership represented is somewhere in the neighbourhood of 80,000 members. The Association is a unitary organization that has close to 140 local councils. These councils are not autonomous groups in the same sense as Federation affiliates but correspond to the local unions of Canadian or International Trade unions. Total present membership is 30,000. The Institute is organized in professional groups of economists, nurses, statisticians, etc., and in Branches made up of these groups in various areas of the country. Of its membership of 5,000 some four-fifths is concentrated in Ottawa.

Estimates of the effectiveness of the civil service organizations vary with the person making them. On balance they have been highly successful when the limitations on their operations are considered. Not only are they legally enjoined from the processes of collective bargaining but in the past, and to a considerable degree today, they are hampered by inadequate finances and, in some cases serious internal problems and power struggles. The ultra conservative nature of some members has also been a factor impeding progress.

However, Governments are no more benevolent than other employers and had not the associations been in existence the civil servant

would be materially much worse off than he is today. Every major employment change or improvement in the service has only been the result of consistent agitation by the Associations.

Broadly speaking there are two major areas of association activity. The most publicized, of course, is the attempt to improve the general level of salaries and wages, and to bring fringe benefits and working conditions up to industrial standards. The other, and in terms of time and effort the larger, is the handling of individual and group problems and grievances concerned with all aspects of employer-employee relations and personnel management.

There are two ways in which the associations can make their wants known to the employer and apply limited pressures to have these views implemented. One is by direct action, the other is by consultation in the National Joint Council. In view of my earlier remarks concerning the Council little, if any, further comment on this method is required. Direct action may result in an association or group of associations presenting briefs (or as they were once called in the British civil service « memorials ») to the administrators concerned, to the Civil Service Commission, Treasury Board, the Cabinet, to individual members of Parliament (a very limited form of lobbying), or to Parliamentary Committees.

In addition the associations may support their direct representations by resorting to publicity, either in the public press or in their own publications, (or both), by personal demonstrations, (usually in the form of public protest meetings), and very occasionally in the courts. (Recourse to the courts is usually undertaken by an individual to attempt to force adjustment of a personal grievance.) The main purpose of using the press and demonstrations is, of course, to gain public support for a particular issue, and thus add this additional pressure to their representations. (Regardless of the merits of an issue if a Government feels that the public is behind the employees, ways are usually found to implement, at least in part, the employee demands.)

Except for general meeting or rallies little use has been made of strikes or picketing by civil servants. There is only one case known to me where an association, as distinct from one of its members, has gone to the courts and this was in connection with employee compensation for an injury.

There has been agitation among postal workers for work stoppages and strikes over the recent salary dispute, but they received no support from other organizations or their members, and there is some doubt that they could muster a solid front even among their own members when it came time to walk off the job.

PAY AND WORKING CONDITIONS

To complete the descriptive part of this paper I shall now briefly look at salaries, wages and working conditions in the public service. In theory, the bright ambitious young man can enter the service as a clerk and by diligence, hard work and continual self-improvement one day become Deputy Minister of his Department. In practice this is impossible.

Carrying the theory through from start to finish what can our young hero expect in terms of material rewards? As a grade one clerk he would start at $2100 per annum. As he progressed through the higher clerical grades he would rise to the $6,000 a year class and would then be promoted to the administrative classes. In this category, at the senior level, he could expect to receive some $12,000 per year and would then find himself entering the exalted atmosphere just below the deputy minister level, the senior officer class.

This small elite group goes to a maximum of $18,500 per year. Finally on promotion to Deputy Minister, or its equivalent, he could expect roughly $23,000 per year. (If he should really excel and be chosen as Chairman of the Civil Service Commission he would then receive $25,000 per year.)

(It should perhaps be added that if this mythical genius were really smart he would transfer to one of the crown corporations, or even better seek to find an executive position in private industry.)

In addition to his « rich » rewards in salary he could also expect the following fringe benefits: a pension after 35 years service based on 70% of his earnings over the best 6 years of employment, and for which he contributed 6½% of his salary (5% for females) matched by an equal employer contribution. He could also receive 15 working days annual vacation, 15 days cumulative sick leave per year, and various other forms of leave for education, special circumstances, etc. He works a

five-day, 37½ hour week, and unless he were in a very restricted class of operative employees would not receive any pay for overtime, but straight time off in lieu. Since July 1, 1960 he would be able to participate in a contributory medical-surgical plan.

He would also be eligible to buy death benefit insurance up to a maximum of $5,000 depending on salary, at a price of 10c per $250 of insurance. As of July 14th this year he would also receive, on retirement a paid up death benefit of $500.

Salaries in other categories would be relatively the same. Once professionals reach a certain level just below this they can reach roughly $15,000 per year.

These then are the benefits of Government employment. Those of you accustomed to industrial pay rates and perquisities would readily agree that the rewards of public service are often more in the form of kudos and prestige than dollars and cents. The concept of public service, never too great in Canada at best, has been done further damage by our rapid industrial development. There was a period when part of the rewards of public service were found in job satisfaction. However, the civil service today is very close to being another industry. Careers, in the true sense of the word, are for the few and the many are more concerned with the material problems of existence such as rent, light, heat and food. In the great search for equality the mass of civil servants are no more easily identified than their industrial brethren.

This is particulary true when he must purchase the necessities of life. Satisfaction and pride simply do not bills. This is why we are fighting to achieve a tool that will enable us not to surpass industry but to force parity today rather than having to wait upon the largest of the Government, spurned to action by either a pang of conscience, a shortage of staff or a public clamor raised by the associations.

HOW ESTABLISHED

How then are these munificent rewards arrived at. By collective bargaining? No. By some lesser form of employer-employee negotiation? No. By Consultation? Not usually. Unilaterally? In effect, yes. While the Government is probably no better or worse than its industrial counter-parts, or governments in other jurisdiction it comes

in for its heaviest criticism for the fact that it has consistently refused to negotiate and often to even consult.

Whether or not Government employees would be materially better off in a bargaining or negotiating situation is not to my mind the important consideration. What is important and to us belittling is the patronizing and paternal way we are treated and the denial of any legal status whatsoever. It may sound strange to you to hear that the only employment right a civil servant has is his right to his pension or return of his contributions regardless of what the circumstances of his release, resignation or dismissal. One other thing that should be emphasized is that contrary to public belief security of tenure in the public service is no more assured than in many areas of private enterprise.

Just how do benefits compare to those in private industry? Salaries aside for the moment the only area where the service enjoys any appreciable advantage is in pensions. All of the benefits we have, with the exception of the medical-surgical plan, existed at the end of World War II. The only significant fringe benefits won between 1945 and 1960 were the Death Benefit and the granting of check-off rights to the associations, and for four years we had to pay half of the administrative costs of this as well.

Civil Service salaries have always been a source of discontent. For a long time Governments were able to point to such «luxuries» as annual holidays, sick leave and pensions as factors offsetting admitted salary deficiencies. It has only been in recent years that anything approaching a definitive salary criteria has slowly begun to emerge. It has further required a most acrimonious dispute between the Government and the associations to finally win a reluctant statement from the Cabinet as to exactly what this policy is.

In the years between 1945 and 1957 general salary increase were relatively easy to obtain. The buoyant post-war economic situation meant that there were high government revenues and not even the Korean War had any retarding effect on salary increases.

While I have used the term « general » to describe these increases they were not the industrial type « across the board » increases so popularly described in the press. The only general meaning percentage figures had in connection with these increases was in terms of the increase resulting in the total wage and salary bill. In application there

was a wide variation in amount and percentage given to the various classes.

Salary research up to and including 1957 was more or less on a hit or miss basis. No one, and I would suspect this included the Civil Service Commission itself, was certain as to what criteria should be used in salary determination. There had been some enunciating of a salary policy from time to time but these smacked strongly of being « political » statements designed more for the record than anything else.

In 1957, after much urging from the associations, the Government agreed to the establishment of a pay research bureau as part of the Civil Service Commission to do the statitiscal research work required to determine accurately the relation between civil service salaries for given jobs and their industrial counterparts. Slowly the policy of industrial comparability based on a « good employer » concept began to unfold itself. It should, however, be emphasized that this was a unilateral decision of the Government and was not taken in consultation with the associations. We had however been agitating for a definite policy for many years.

In May 1958, the Prime Minister declared that Government policy on salaries was based on the following criteria; which had actually been recommended by the A. Young & Associates at the time they set up the present classification system in 1919.

« The pay for each class of employment should be equitable that is, fair to the employee and fair to the taxpaying public. Fairness to the employee requires that the compensation should permit him to maintain a standard of living that will make for the good of society and posterity. In the case of the lowest ranks of the service, the compensation should be adequate to attract into the service young men and women without family responsibilities but of a training and capacity that will enable them to become of future value to the service and to themselves.

The interest of the worker thus provided for, fairness to the taxpaying public requires that the compensation should not materially exceed that paid for similar service by enlightened employers in the general industrial and commercial world. Any excess over such pre-

vailing average is in the nature of a special subsidy with which no group should be favoured. Furthermore, fairness to the public requires that in comparing the compensation paid for services to the public with those paid in the business world for similar services, the relative advantages and disadvantages of public and private employment, such as permanency and continuity of tenure, hours of work, holidays and sick leave, and related factors, should be taken into account ». [8]

There then followed some six months of active strife between the Government and the Associations. The Federation and the CSAC had formed a co-operative alliance known as the Joint Action Committee and after extensive meetings, press conferences, and a continual series of briefs and letters aimed at Members of Parliament the Government announced in its Budget address that increases granted over a period of months would cover all classes of the service that were shown, on survey to be out of line with their industrial counterparts.

With this historical and structural background we can now come down to an evaluation of the Government as an Employer and also explore briefly is needed in the future.

I am certain that many of you, accustomed to the industrial climate and methods, find it hard to understand just why the Government has been able for these many years to effectively refuse to bargain or negotiate with its employees. In fact even consultation is often most difficult to arrange. The exception of course is when there is some bad news to be transmitted and it suddenly becomes desirable to invite the Associations in for a talk.

Over the years the position has been taken that for some reason, legal, constitutional or otherwise it would not be proper for the Crown to bargain collectively with its employees. When the attitude expressed by all Governments that such an arrangement would also be undesirable from a policy viewpoint is added to those fictional expressions of a vague legal position, it has presented an exceedingly formidable barrier to effective progress. Some of this thinking goes back to ancient times, the theory of the divine right of Kings and the oft expressed idea that

(8) This policy had been enunciated by the previous Government as well and the Prime Minister's statement was largely a restating of a declaration by his Liberal predecessor. However, the establishment of the Pay Research Bureau in 1957 provided a practical method of implementing it for the first time.

« the King can do no wrong ». In today's terms this idea is, of course, an anachronism.

There are also strong roots stemming from the old days when patronage was the only way to enter Government employment. Under these conditions nothing but unilateral determination of salaries and conditions could be tolerated by the Government.

In my view the case as to whether or not the Government is a good employer rests solely on the issue of effective negotiating procedures. Most of us are quite realistic enough to accept the fact that bargaining as it is spelled out in the various labour relations acts probably would not be too satisfactory in the Government service. We also recognize that any system recognize the fact that funds, under our system of Government are voted by Parliament, and any agreement reached would have to be subject to Parliamentary approval.

Further, up to the present there has been no conscious desire on the part of the majority of employees to resort to the strike as a weapon. How much longer such a situation will obtain is a matter that is difficult to say. Some of the opposition to the strike in the civil service is based on tactical reasons: other on a revulsion to the idea. As younger people with more aggressive ideas enter the organizations they are less prone to be subject to the inhibitions of their elders.

I cannot say in conscience that the Government on its records has been a good employer. True, private employers are only as good as their unions make them be, but the Government does not even reach this cynical plateau. The whole history of Government action in employee matters has been one of doing what is expedient after everyone else has adopted more advanced ideas. The employee in private industry can rely on the neutrality of the law.

The whole system of employer-employee relations in the Government service is rigged in the Government's favour. A colleague of mine has suggested it is a « heads we win; tails you lose » relationship with the Government always calling the toss. Action to equalize pay and conditions is always too little and too late.

This is basically an unhealthy state of affairs. The Government's employees are forced to work in an atmosphere of continual concern about their futures in respect to salaries and working conditions. There

is not, in my view, any definitive policy or planning in personnel matters. Until such time as there is we can only expect the present unsatisfactory conditions to continue.

It has been maintained that the Government's « Good Employer policy » is all the safeguard the civil servant needs to assure him of equitable treatment. First it ignores the commonly accepted fact that employees do not value collective bargaining solely in terms of economic gain. Employees in this day and age do not like the thought of being subject to the will of the boss, however generous and benevolent he may be, and it has often been suggested that the possession of bargaining rights, the ability to stand up to the employer on terms of relative equality, in itself does much to increase the self-respect and working morale of a body of men and women.

The second, and probaly more important fact that we, as civil servants must live with, is that there is nothing in the « good employer » policy to give civil servants any real assurance that their lack of bargaining rights will not result in economic loss.

This, coupled with administrative inconsistency is a serious situation. The Government and its senior administrators are quick to adopt the most advanced techniques of industry in all areas element is so important, it is absurd to retain outmoded philosophies and doubtful concepts.

Until the time comes, (and it may be nearer than many of us realize), that the Government decides, in co-operation with its organized employees, to work out a system of bargaining or negotiation that is equitable to all concerned, we cannot consider the Government as being in the front rank of employers. As the country's biggest single employer there is a definite onus on the Government to accept its responsability to lead in introducing employee benefits. It is not enough for the Government to legislate morality into others, while at the same time using its sovereign power to deny its own employees a role in the determination of their salaries and working conditions.

Le gouvernement-employeur

Pour les fins du présent travail, je me limite aux employés civils, au nombre de 140,000, qui relèvent de la Loi du service civil et qui tombent sous la juridiction de la Commission du service civil.

A toutes fins pratiques, on peut dire que le service civil proprement dit a pris naissance officiellement en 1868 avec l'adoption de la première loi du service civil. Jusque vers la fin de la première guerre mondiale, cependant, il n'y eut pas de véritable organisme chargé d'élaborer et de coordonner les politiques administratives du gouvernement dans ses relations avec son personnel. C'était le règne du patronage.

En 1918, le gouvernement de coalition décida de placer le service civil extérieur (en dehors d'Ottawa) sous le contrôle de la Commission du service civil. Cette commission reçut alors le statut qu'elle a conservé jusqu'à aujourd'hui. Elle est devenue une institution qui relève théoriquement du seul Parlement, mais la nomination de ses membres est une prérogative du gouvernement.

Le gouvernement fédéral est incontestablement le plus gros employeur au Canada, surtout si l'on ajoute aux quelque 140,000 fonctionnaires proprement dits environ 350,000 soldats et membres des forces policières. Normalement, on pourrait s'attendre qu'un tel employeur ait des idées claires et adopte des procédures définies dans ses rapports avec ses employés, mais il n'en est rien, car le gouvernement a plutôt une forte propension à recourir aux expédients.

Les organismes qui ont affaire au personnel sont le Bureau du trésor, la Commission du service civil et les divers Ministères. Les pouvoirs du Bureau du trésor en matière de finances lui donnent en fait une influence prépondérante, car même si c'est la Commission qui propose, c'est le Bureau qui dispose. Ce dualisme est une source constante de conflits, de délais, de frustration et d'inefficacité.

Depuis 1918, l'attention publique n'a jamais été alertée par des cas de patronage résultant de pressions de politiciens, mais on n'a pas suffisamment tenu compte du patronage interne qui s'y pratique et qui, à certains points de vue, est pire que l'autre.

La Commission du service civil doit remplir les fonctions suivantes: a) préparer des règlements concernant les conditions de travail; b) classifier les tâches, faire passer les examens aux candidats, désigner les titulaires à divers postes, etc.; c) faire des recommandations au gouvernement au sujet des salaires. Dans l'exercice de cette dernière fonction, la Commission est forcément limitée aux suggestions qu'elle considère acceptables par le gouvernement.

La Commission est formée d'un président et de deux autres membres. Traditionnellement, l'un de ces deux membres est un Canadien français et l'autre est une femme. Ils sont nommés pour dix ans. Les commissaires sont assistés par des experts.

En pratique, l'indépendance de la Commission est compromise par ses contacts quotidiens avec le gouvernement. Elle est généralement considérée par les fonctionnaires comme un instrument de l'employeur, ce qui d'ailleurs est rigoureusement exact.

Ce qui complique encore les choses, c'est que les directives de la Commission, dont le but est de produire une certaine uniformisation des conditions de travail,

sont interprétées et appliquées de différentes façons dans les divers Ministères. En fait, beaucoup de fonctionnaires sont convaincus que le patronage politique a été remplacé par le patronage à l'intérieur des Ministères.

En 1944, au cours de la deuxième guerre mondiale, le gouvernement a décidé d'appliquer aux relations avec ses employés la formule des comités mixtes de production qui donnait de bons résultats dans l'entreprise privée. Le gouvernement est représenté à ce Conseil national par 10 personnes, lesquelles ont habituellement rang de sous-ministre, et les employés sont représentés par dix officiers de leurs associations. Les délibérations ont un caractère confidentiel. Tandis que les représentants du gouvernement sont libres de communiquer avec leurs supérieurs, les délégués des associations d'employés doivent au contraire prendre des décisions à leur propre compte. Comme dans le cas des comités mixtes de production, les questions relatives aux salaires sont en dehors de la compétence du Conseil national.

Les associations d'employés civils peuvent travailler de plusieurs façons en faveur de leurs membres. Elles présentent parfois des mémoires, elles ont recours à la presse et à leurs propres publications, elles tiennent des réunions publiques et enfin, parfois, elles assistent des individus qui intentent des poursuites en justice.

En pratique, c'est le gouvernement qui fixe les conditions de travail. Il n'y a pas de négociation collective, ni généralement de consultation. Le gouvernement adopte une attitude paternaliste à l'endroit des associations d'employés et ne leur reconnaît aucun statut légal.

En 1957, par suite d'énormes pressions, le gouvernement a accepté d'organiser un service de recherches dans le but d'établir la relation entre les tâches du service civil et celles de l'entreprise privé. Il s'agit ncore d'une décision unilatérale. On semble vouloir accepter que les fonctionnaires soient traités aussi bien que les employés de l'entreprise privée, mais il y a encore beaucoup de chemin à parcourir avant d'atteindre cet objectif.

Le plus surprenant, c'est que le gouvernement soit si lent à adopter une politique avancée dans ses relations avec les fonctionnaires, et qu'il soit si prompt à faire oeuvre de pionnier dans d"autres domaines. Lorsqu'il s'agit des conditions de travail, le gouvernement fait figure d'employeur rétrogade, lui qui bat la marche et ouvre la voie dans beaucoup d'autres secteurs.

En définitive, tant que le gouvernement n'aura pas établi avec ses employés un système de négociation collective, on pourra lui reprocher de ne pas faire lui-même ce qu'il enjoint aux autres. Il ne suffit pas d'obliger les autres, par la loi, à bien se comporter: il faut que l'Etat lui-même, en tant qu'employeur, sache prêcher d'exemple.