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Collective Bargaining by Civil Servants
La négociation collective chez les employés civils

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Résumé de l'article

L'organisation syndicale chez les employés civils remonte assez loin. Les commis de poste étaient organisés dès 1889, et les facteurs le furent en 1891.

A l'instar des autres groupes sociaux, les associations d'employés civils sont des organisations syndicales ayant pour but la promotion du bien commun du groupe. Mais, sauf dans la province de Saskatchewan, les employés civils, tant fédéraux que provinciaux, ne peuvent négocier collectivement, suivant l'acception du terme dans le secteur privé, où les unions ouvrières peuvent également obliger l'employeur à négocier avec eux.

LE SYNDICALISME: UN BESOIN

Le syndicalisme chez les employés civils répond à un besoin. Il est une source d'identification et de solidarité qui pallie l'isolement et l'anonymat dus au travail, et permet de développer un sentiment d'admiration mutuelle parmi ceux qui sont souvent considérés à l'extérieur comme un mal nécessaire. De plus, l'association sert d'intermédiaire comme ailleurs, et même, avec peut-être plus d'acuité, les motifs économiques priment.

Privés du droit de négocier collectivement, les employés civils sont dans une position particulièrement vulnérable. Ils sont au service du public représenté par le gouvernement au pouvoir lequel ne désire pas battre la marche dans la fixation des taux de salaire. Comme groupe, leurs salaires et leurs conditions de travail attirent l'attention de tout le public, et leurs demandes sont souvent appréciées selon des critères totalement étrangers au secteur privé. Par exemple, l'approche d'une nouvelle élection, la nécessité (pour des raisons politiques) de montrer des économies, le différentiel entre les taux de salaires dans les entreprises privées, l'attitude du régime au pouvoir à l'égard du rôle de l'État, etc.

PÉTITIONS OU REVENDICATIONS?

Dans l'exercice de leur liberté civile, les employés civils doivent se comporter à la fois comme pétitionnaires et comme «pressure group». Ils ne peuvent ni demander, ni négocier, ni insister ou menacer à la façon des autres unions. Comme groupe, ils doivent faire pression auprès du gouvernement et de l'opinion publique. Ainsi défavorisés, ils ont beaucoup moins de chance de réaliser des gains légitimes. Le fait demeure: quelle que soit la perfection de leur organisation, les employés du service civil, comme groupe social, sont dépourvus des droits que la loi et la coutume accordent aux travailleurs de l'industrie privée.

La négociation collective suppose deux parties égales ayant leur intérêt propre; des rencontres, discussions et échanges de propositions en vue de compromis; un accord écrit et une procédure pour régler les différends concernant cet accord. Le procédé doit être bilatéral et fait de bonne foi avec volonté d'entente.

Dans le système actuel, la Commission du service civil détermine les standards de travail, les règlements, la classification, etc.; les changements dans les salaires dépendent de décisions gouvernementales. Les associations d'employés du service civil peuvent uniquement suggérer, aviser et critiquer.

Une législation aurait pour effet d'établir le droit pour les employés civils d'être représentés par des associations de leur choix, ainsi que les bases pour l'exercice de ce droit. Ainsi, les négociations prendraient une tournure différente. Le ministre chargé de négocier ne pourrait plus s'asseoir en disant « le Roy le veut » ou « le Roy s'avisera », et les représentants des employés cesseraient d'être des pétitionnaires. Les deux parties s'adonneraient donc à la négociation avec ce qu'elle comporte sur le plan tactique.

LA GRÈVE OU L'ARBITRAGE?

Comment se régleront les divergences? Par la grève? Par l'arbitrage?

Priver les employés civils du droit de grève, c'est leur conférer un statut civil inférieur à celui des autres employés. Cette injustice vaut-elle le risque que comporte la possibilité de grève? Un gouvernement, tout comme certains employeurs, peut se montrer anti-syndical. Mais, même aux yeux des employés civils la notion de grève contre un gouvernement répugne, quoique la reconnaissance de ce droit en Saskatchewan n'ait pas empêché cette province et son gouvernement de survivre.

L'arbitrage est une alternative au droit de faire la grève. Celui-ci devant lier les parties, il est nécessaire que les arbitres soient compétents et désintéressés. Certains diront: comment un gouvernement peut-il accepter d'aliéner son droit de disposer de l'argent des payeurs de taxes au bénéfice d'arbitres? Pourtant les municipalités le font. De plus le Parlement peut passer une loi à cet effet. Enfin, la tradition chez les employés civils et l'expérience des arbitrages passés sont une garantie contre les décisions extravagantes ou exorbitantes. Il reste, comme dernière alternative, la conciliation par des personnes d'une haute compétence, d'un grand prestige et étrangères aux parties, ou un tribunal d'enquête lequel serait inévitablement de nature semblable à un arbitrage liant les parties.

Toutefois, quelle que soit la procédure établie pour la négociation et la solution des différends, les deux parties auront de la difficulté à se libérer des liens du passé et à traiter entre eux sur une base nouvelle, car le champ de négociation reste à déterminer. En Saskatchewan, certaines questions comme le système de classification, sont une prérogative de la Commission du service civil. Au Fédéral, les décisions devront être prises conformément au *Superannuation Act* et au *Civil Service Act*. On peut présumer, avec raison, que les employés civils n'accepteront pas longtemps que des questions habituellement discutées dans le secteur privé demeurent réglées par des lois et soient l'objet de décisions unilatérales, alors que des accords mutuels pourraient rendre inopérante la législation qui les aurait promulgués.

PROBLÈMES DE REPRÉSENTATION

Dans plusieurs provinces, ainsi qu'au Fédéral, le droit de négocier soulèverait des problèmes pratiques de représentation, étant donné les affiliations différentes des groupements d'employés. En plus, au Fédéral des unions sont organisées sur les bases départementales, inter-départementales, intra-départementales ou de métiers; certaines sont à caractère professionnel, d'autres purement régionales. Et, comme l'accord se fera sur le plan national avec un contrat unique ou un nombre limité de contrats, il existe pour les organisations des employés civils un problème très aigu d'élimination des juridictions.

Le droit de négocier collectivement pour les employés civils intéresse aussi le grand public. Si c'est une bonne chose pour le bien commun de la population que les employés des grandes corporations exercent ce droit, il en est de même pour les employés des gouvernements. L'histoire nous enseigne que les gouvernements n'ont pas toujours été de bons employeurs, il ne faut pas le cacher. De même que la constitution canadienne impose des limites au Parlement et aux Législatures pour les empêcher de devenir des tyrans au lieu de rester les serviteurs du peuple, ainsi il serait désirable d'établir des règles qui rendraient le gouvernement, comme employeur, pas moins responsable que les autres employeurs.

Il ne faut pas oublier que certaines caractéristiques sont communes à tous les employeurs, quels qu'ils soient. Le désir très louable de diriger une entreprise avec succès associé à la faiblesse humaine conduit parfois à l'arbitraire et à l'oubli des valeurs humaines: ce que les unions préviennent dans le secteur privé. Pourquoi ne le feraient-elles pas dans le secteur public?

Une convention collective apportera plus de satisfaction chez les employés civils. Par exemple, les augmentations de salaires ne seront plus le fait d'une pseudo-générosité du gouvernement, mais le fruit d'une entente. L'établissement de canaux pour le règlement des griefs contribuera inévitablement à augmenter le sens des responsabilités chez les deux parties. Dans de telles circonstances, la procédure de griefs devient une soupape de sûreté et un moyen de coopération entre la direction et l'association.

La question de la convention collective comporte plus d'envergure que ce qui a été brièvement décrit. Mais, il reste que dans notre société actuelle, le droit pour les employés de défendre leurs intérêts et d'améliorer leur sort est un fait reconnu. Nier ce droit aux employés civils constitue une lacune d'importance.

Collective Bargaining by Civil Servants

A. Andras

In this article, the Author describes organization as a fundamental fact of life and the right of association as a civil liberty and a basic need for civil servants. Should these remain suppliant, or become truly demanding? Collective bargaining brings about important changes in the relationship between the parties which are all to the good. The Author examines various alternatives (strike, arbitration, conciliation, fact-finding boards) for dispute settlement, describes the scope of bargaining and the problems of representation of the civil servants, paving the way toward "a sounder relationship" between them and the government.

In any discussion concerning collective bargaining by civil servants, one important point must be made from the very first: civil servants have been organized for a very long time. Railway mail clerks were organized as far back as 1889 and letter carriers in 1891. A third group recently celebrated its golden anniversary.

Organization: A Fundamental Fact of Life...

In forming associations, civil servants were, of course, doing what almost any other group does which finds itself with a common interest. Organization is a fundamental fact of life in our society. For purposes which range from the mild and harmless to the ruthless and anti-social, men have entered into combinations since ancient times. They have most commonly tended to combine to further their economic interests, hence trade associations, co-operatives, farmers' unions and trade unions to mention but a few, — and associations of civil servants, though it is maintained here

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that these are essentially trade unions also.

...and a Civil Liberty...

In what we are pleased to call a free society, the right to form an association is one of our civil liberties. In some fields, there is both legal sanction and intervention, combining rights and obligations. Thus, the freedom of workers to form unions, for example, has brought with it in recent years the right to obtain recognition from employers and the related right to demand of employers that they bargain with the recognized unions of their employees. At the same time, however, these rights are tied to an obligation on the part of unions to demonstrate that they do in fact enjoy the support of a majority of workers before they can exercise those rights. Basically, however, subject to this and some other restrictions, the wage and salary-earners in private industry enjoy not only the right to form trade unions (a right dating back almost to Confederation) but to engage in mandatory collective bargaining with their employers. But except in the province of Saskatchewan, civil servants whether federal or provincial are not able to engage in collective bargaining in the generally accepted sense of the term.

...as well as a Basic Need for Civil Servants

It is not difficult to see why civil servants would want to enter into an association with one another. A number of motives are readily apparent. One of them is the sense of solitude and anonymity of the individual working for "the government"; the awareness moreover of being considered by many at best a necessary evil, at worst a drone. Organization creates a means of identification and solidarity, even of mutual admiration for those who do not readily obtain admiration elsewhere. This is not stated in any derogatory way. It is a common, altogether understandable and justifiable human emotion, as common to bank presidents as to civil servants.

Even in these days of civil service commissions, with their seemingly impersonal rules, their competitive examinations, their rankings based on objectively-determined merit, the civil servant looks to his organization for protection: against the very rules which seemed just until they affected him; against those who have judged him, frail, fallible human beings that they are; against the frictions, misunderstandings and arbitrariness which occur in the still very much *terra*

incognita of human relationships, more particularly labour-management relations, whether in the public service or elsewhere. If for no other reason, civil servants would want an organization to be a buffer between them and their employer in such circumstances and to speak for those who cannot easily speak for themselves — for obvious reasons.

Above and beyond these reasons, there is indubitably the economic motive which can be and probably is more articulately expressed than any other. There are matters of salaries, overtime, holidays, promotions, classifications, superannuation and so on, which loom every bit as large in the life of the civil servant as they do in the life of his fellow-employee in the privately-owned plant or office.

Deprived of collective bargaining rights, the civil servant is in a peculiarly vulnerable position because of his peculiar status. His employer is the public, in effect the government of the day. His salary and other conditions of work are in the public eye; they are liable to be a matter of political manipulation. He is a part of every budget; he figures in the estimates and is the prey of every economizer, rational or otherwise. His troubles are further compounded in that the government is generally reluctant to be the leader in setting salary standards. A government may be willing to be a good employer (without defining the term here) but it is not as a rule ready to be the best employer. As a result, government salary rates are often sticky and there is frequently a time lag between changes in rates in private and public employment. Apart from railway workers, who are quasi-public employees, the civil servants as a group are about civil servants is weighed and appraised according to standards which them the focus of public attention. Accordingly, every increase for the only ones whose wages and working conditions bring to bear on in part at least are totally foreign to private industry: the imminence of an election, the need (for political reasons) to show economies, the gap between public and private rates of pay for comparable positions (including the universities here as private employers), the attitude of the current government as to the role of government, and so on.

To the extent that civil servants have organized — in varying degrees as between one jurisdiction and another or even one department and another — they have so far simply exercised the same civil liberty which has been available to everyone. In part they have been prompted by the same motives as others who make their living as employees, in part by the special nature of their employment.

Inevitably, they have shaped their organizations to their circumstances.

Supplications... or Demands?

Civil service organizations are, at the same time, suppliants and pressure groups. They are suppliants in this sense that they must perforce importune for the things they want. They cannot demand. They cannot seek to make a bargain. They cannot insist or threaten. They cannot, in short, do all those things which are a characteristic of trade unions. They are pressure groups in the sense that they are, collectively, of some consequence as employees and as voters. They must make a case both to their government and their larger employer the public. They have learned to do both.

But whatever the expertise of the civil service organization in making representations, the fact remains that the civil servant as a class is denied those rights which are granted by law and by custom to employees in private industry. To approach one's employer as a suppliant is not the same as approaching him as a representative clothed with authority. There is that much less dignity, status and self-respect. And there is that much less chance of success in gaining wat appear to be legitimate ends.

The Meaning of Collective Bargaining

What, essentially, does collective bargaining involve? It involves, first of all, two parties, each representing an interest: an employer interest and an employee interest, the latter a collective one expressed by representative spokesmen. It presumes some parity as between the parties in that each is, in theory at least, free to take certain action or to threaten such action should there be no meeting of minds. It means the exchange of proposals and counter-proposals and the possibility fo agreement by compromises mutually worked out. It implies some formal, agreed-upon machinery for the exercise of this process whether at stated intervals or otherwise. It implies, in Canada at any rate, the reduction of any agreement to writing in terms that again are mutually worked out, and including as part of such terms the machinery for the settlement of disputes arising out of alleged breaches of the agreement or because of differences as to its application or interpretation. Inherent in the whole process is the requirement that the agreement should be bilaterally arrived at, not unilaterally imposed.

There is at least one further feature that needs be mentioned: the element of good faith. This is an important ingredient in collective bargaining, even though it is difficult to define or even to identify, since the degree of good faith that may be expected is apt to vary from one situation to another. Essentially, however, it is the willingness of the parties to engage genuinely in collective bargaining with the honest intention of trying to reach an agreement. This last statement is susceptible to the charge that it begs the question: what would "genuinely" mean and what is an "honest intention"? To this charge and at this time the author pleads guilty.

Assuming, however, that the foregoing definition is good enough for discussion here, it helps to emphasize the difference between the *status quo* in employee-employer relations in the government and what relations would be under a system of collective bargaining. There would, of course, be a difference in law: The present system involves a statute under which a civil service commission promulgates rules of conduct, classification and working standards, etc., while broad salary changes are a matter of governmental decision, whether formally or otherwise. Civil service organizations may suggest, advise, recommend or criticize, but essentially the decision, whatever it is on whatever point, is a unilateral one. It is not a matter of mutual agreement. There is joint consultation but it is not necessarily conclusive nor is there any way of making it so.

The Big Differences

Collective bargaining legislation would result in substantial differences. It would naturally have to set out as a prerequisite the right of civil servants to engage in collective bargaining through associations of their own choosing and the undertaking by the Crown in right of the particular jurisdiction to bargain in good faith with such associations. Beyond that, the legislation would have to set forth the basis on which civil service organizations could establish their right to be recognized and the way in which bargaining itself would be carried on. Presumably the experience of current labour relations legislation would to some extent be drawn upon in setting the rules of conduct for bargaining: the serving of notice, the periods of time for negotiations and so on. It is conceivable, of course, that the Act might also provide for joint consultations though this would be supplementary to its main purpose.

There would, in addition, be a considerable difference in attitude. A minister or a high official who is required to sit down and strike a bargain must come to the bargaining table in a very different state of mind from the same person who has heretofore found it sufficient to declare "le Roy le veut" or "le Roy s'avisera". Similarly, the representative of a civil servant organization who has been in the habit of merely petitioning or of making his arguments to the press would have to develop a rather different attitude and, what is more, develop among his own constituents a rather different approach concerning their own status as employees and union members. On both sides there would have to be created the very important ability to chaffer, to grasp the import of an offer or counter-offer, to choose among alternatives, to seize upon weaknesses, to distinguish the important from the less important, to sense the point of no return, to know when to introduce the element of threat where argument has lost its persuasion, to know when to retreat; in short, a new rationale of relationships would be established, pervaded by a new kind of spirit.

Strike or Arbitration?

This does not make up the whole picture, or even a gross simplification of what would occur. There is the further, and to some most basic, question of all: the matter of disputes settlement. Would civil servants have the right to strike? Would arbitration be the *modus operandi*?

From a civil libertarian point of view, an argument could be made in favour of giving civil servants the right to strike. To deprive them of that right is to make them less free than other employees. It may be better for the general well-being of the country and its socio-political climate to risk the possibility of a strike sometimes than to make any group of employees less free than others. It may further be argued that a government, no less than any other employer, may be obnoxious, recalcitrant, intransigent, penurious or unjust and that a public employer of this kind should just as much be exposed to the chastening effect of a collective withdrawal of labour by its employees as any other.

Be that as it may, to some people, including civil servants, the notion of strike action against a provincial or federal government is repugnant. Among civil servants themselves, the tradition of service militates against striking. It is worth noting that firefighters, for exam-

ple, have written a no-strike clause into their constitution. In Quebec, legislation forbids strikes by certain classes of public or quasi-public employees. In the Saskatchewan Trade Union Act, on the other hand, "employer" includes "Her Majesty in the right of Saskatchewan", strikes of public servants are legal, and the province has very evidently survived and with it the government which enacted the legislation.

An obvious alternative to the right to strike would be arbitration, although some additional methods of third-party intervention are worth considering. Arbitration is a familiar device for the resolution of disputes in the public service of other countries. Great Britain and Australia have both used it successfully. Canada itself has had considerable experience of it in private industry although here it is normally confined to disputes arising during the currency of an agreement rather than to disputes arising out of a breakdown in negotiations. Since it would presumably be compulsory, it raises the further question of the appointment of the arbitrator or arbitrators; a panel of obviously disinterested as well as competent arbitrators would be needed.

Someone is sure to ask, "How can a Government bind itself to accept the awards of an outside arbitrator or arbitrators, awards which may run into millions of dollars? How can Parliament or a provincial legislature surrender its right to decide how much money shall be spent, and for what purposes, and how heavy a burden shall be laid on the taxpayers?" One answer is that municipal governments already do just that. Another is that Parliament or a provincial legislature can, if it chooses, pass an Act binding itself to accept anything; though of course it can also repeal any such Act at any moment. (This guarantees the preservation of its sovereign rights.) A third answer is that in practice the arbitrators would not in fact make extravagant awards, and the Government could easily budget for any increases that were at all likely. It could even set up a contingency reserve for this express purpose, with the distinct understanding that this reserve was not necessarily to be spent, or even drawn upon, in any particular year or years. Finally, civil servants are not wild men. They are, on the contrary, staid and sober-sided citizens. They are most unlikely to make, or press, unrealistic demands.

Conciliation and Fact-Finding Boards

Other conceivable alternative include conciliation and fact-finding tribunals. Conciliation would presumably be dependent on outside

conciliators, again presumably on those who possess not only the requisite knowledge and skills, but the prestige necessary to be listened to attentively by a sovereign government and a large employee organization. A fact-finding tribunal, again, assuming that its members were people of the highest repute and unimpeachable integrity, would tend to take on the nature of an arbitration board since its findings would likely be regarded as the final word on the dispute. It is also possible that either of these methods could supplement the procedures already outlined although there are certain weaknesses in this.

Even allowing for the establishment of workable machinery providing for recognition, bargaining and disputes settlement, the fact must be faced that neither of the parties would be starting with a blank sheet. They would start burdened with an inventory of customs, procedures and attitudes hallowed by time and entrenched in the hearts and minds of those who have lived under and developed them. Learning how to discard the obsolete and how to treat with one another on a different plane than heretofore would be a major task for some time to come.

The Scope of Bargaining

The very area of bargaining is something yet to be resolved. What is to be included? What excluded? In Saskatchewan, turning again to our one example, we find there one major exclusion specified in the Public Service Act, namely, the classification plan and the proviso that the content of the class specifications is the prerogative of the Public Service Commission. This is one instance where an important matter affecting conditions of employment is established by or through a statute, even where collective bargaining is an established right. In the federal field, decisions would have to be made on such statutes as the Superannuation Act and the Civil Service Act. Generally speaking, in private industry, all of the following are considered legitimate subjects for bargaining:

classifications
rates of pay, occupational and inter-occupational
hours of work
overtime
statutory holidays
vacations
rules governing promotions, demotions and transfers (i.e., seniority)

discipline, including dismissals
the physical environment in which work is done, i.e., safe working conditions, cleanliness, sanitation, lockers, work clothes, rest periods, eating facilities, etc.
leave of absence, including sick leave, maternity leave, attendance at unions conventions, compassionate leave, etc.
pensions
health and welfare plans, i.e., group life insurance, sickness and disability benefits, hospitalization, surgical and medical care
the appointment of union representatives for day-by-day contract observance
grievance procedure
bulletin boards
travel and living-out allowances.

This does not by any means exhaust the list. It is merely illustrative of the fairly wide scope of bargaining. It is hard to believe that civil servants, once given the right to bargain, would for long take kindly to the notion that certain important matters affecting them were to be fenced off by statute and left to the — by then and to them — outmoded system of petitions and representations. It is conceivable, of course, that much that is now a matter of regulations could by mutual consent be put into a collective agreement thereby rendering inoperative the Act under which they had been promulgated.

Problems of Representation

In some provinces and federally, the right to bargain would create practical problems of representation. There is one employer but more than one union. In New Brunswick, for example, some provincial government employees belong to an unaffiliated civil service association, some to local unions chartered by the Canadian Labour Congress. In Saskatchewan, the bulk of civil servants are in one organization, but some in another. Both, however, are affiliated with or chartered by the Canadian Labour Congress and the latter group comprises a relatively homogeneous group, so that the problem is not one of rivals seeking to occupy a common field. Federally, the question is much more involved. There are unions organized on departmental lines; others are inter-departmental; others intra-departmental or craft or professional in character; still others regional. Some are affiliates of

the Canadian Labour Congress, others of the Civil Service Federation; some of both; some are unaffiliated. Since bargaining would probably be on a national scale with perhaps a single agreement or a rather restricted number, some of these criss-crossings of jurisdictional trails would have to be eliminated. How to do so is still a matter of some considerable heart-burning in civil service organizational circles.

How About the Public?

It is worth asking whether collective bargaining for civil servants has anything to commend it to the public who are the consumers of their services. An obvious answer perhaps is that it has as much to commend it as the right of employees in private industry to bargain, which is a matter of public policy. If it is a good thing for Canada and its provinces that the employees of a large corporation should be able to make collective demands on and arrive at collective agreements with that corporation, presumably it is equally good for government employees to be able to so. As has already been suggested, there is no using blinking the fact that the government may not always be an ideal employer. It is submitted that just as our constitution imposes limitations on Parliament and our legislatures to prevent them from becoming the masters rather than the servants of the people, so it is desirable to lay down rules to make the government as an employer not less responsible than other employers.

It must be remembered, too, that there are common characteristics among employers, whether they are good or bad, benevolent or otherwise, and whether they are employers in private industry, in publicly-owned corporations, in co-operatives, or in the public service. Management, as a profession, wherever it finds itself, is motivated by fairly common incentives: the desire to show results, to keep down costs, to maintain discipline — in short, to keep the enterprise running smoothly and successfully. They are laudable motives, and no one would be inclined to dispute them. But they must inevitably be associated with human frailties: the tendency to be arbitrary and to lose sight of human values. In private industry, the trade union provides a check upon such tendencies. The question inevitably arises: why not in the public service?

Toward a Sounder Relationship

The establishment of a collective agreement should of itself conduce to a sounder relationship, hence to a more satisfied corps of

public servants. Take salaries as a case in point. They would be established as the result of a bargain. They would represent what is presumably the best the government can give and the unions accept. The government could no longer pose as the generous (if sometimes tardy) benefactor; the union could no longer make (as it frequently does in the civil service) protestations genuine or otherwise that it has been short-changed, or that it should have been directly informed of increases beforehand and not via the press.

The formalization of the adjustment of grievances — the right to file a grievance, to carry it to a higher body and to be represented by a union officer at any stage — inevitably contribute to a greater sense of responsibility on both sides. The grievance procedure under such circumstances becomes a safety valve, a fact which is well recognized by the more experienced and enlightened managements. Such managements have been quick to learn also that it is the union which assumes the burden of eliminating the petty, the frivolous and the imaginary grievances, thereby playing an important role in the administration of staff relations.

There is, of course, more to collective bargaining and labour-management relationships than what has just been so briefly described. There are the less tangible but no less important by-products of stability, of mutual respect and, for the civil servant himself, better status and greater self-respect. The manipulation of masses has become a characteristic of our complex, industrial and urbanized society. The role of the individual has been diminished and it is the collective rather than individual expression of views which counts, particularly in the field of economic action. In what has been described as a laboristic economy, the right of employees to combine and to seek amelioration of their working and living standards through joint action is now entrenched. The denial of that right to civil servants constitutes a major gap. It is time it was filled.

LA NEGOCIATION COLLECTIVE CHEZ LES EMPLOYES CIVILS

L'organisation syndicale chez les employés civils remonte assez loin. Les commis de poste étaient organisés dès 1889, et les facteurs le furent en 1891.

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LE SYNDICALISME: UN BESOIN

Le syndicalisme chez les employés civils répond à un besoin. Il est une source d'identification et de solidarité qui pallie l'isolement et l'anonymat dus au travail, et permet de développer un sentiment d'admiration mutuelle parmi ceux qui sont souvent considérés à l'extérieur comme un mal nécessaire. De plus, l'association sert d'intermédiaire comme ailleurs, et même, avec peut-être plus d'acuité, les motifs économiques priment.

Privés du droit de négocier collectivement, les employés civils sont dans une position particulièrement vulnérable. Ils sont au service du public représenté par le gouvernement au pouvoir lequel ne désire pas battre la marche dans la fixation des taux de salaire. Comme groupe, leurs salaires et leurs conditions de travail attirent l'attention de tout le public, et leurs demandes sont souvent appréciées selon des critères totalement étrangers au secteur privé. Par exemple, l'approche d'une nouvelle élection, la nécessité (pour des raisons politiques) de montrer des économies, le différentiel entre les taux de salaires dans les entreprises privées, l'attitude du régime au pouvoir à l'égard du rôle de l'Etat, etc.

PÉTITIONS OU REVENDICATIONS ?

Dans l'exercice de leur liberté civile, les employés civils doivent se comporter à la fois comme pétitionnaires et comme « pressure group ». Ils ne peuvent ni demander, ni négocier, ni insister ou menacer à la façon des autres unions. Comme groupe, ils doivent faire pression auprès du gouvernement et de l'opinion publique. Ainsi défavorisés. ils ont beaucoup moins de chance de réaliser des gains légitimes. Le fait demeure: quelle que soit la perfection de leur organisation, les employés du service civil, comme groupe social, sont dépourvus des droits que la loi et la coutume accordent aux travailleurs de l'industrie privée.

La négociation collective suppose deux parties égales ayant leur intérêt propre; des rencontres, discussions et échanges de propositions en vue de compromis; un accord écrit et une procédure pour régler les différends concernant cet accord. Le procédé doit être bilatéral et fait de bonne foi avec volonté d'entente.

Dans le système actuel, la Commission du service civil détermine les standards de travail, les règlements, la classification, etc.; les changements dans les salaires dépendent de décisions gouvernementales. Les associations d'employés du service civil peuvent uniquement suggérer, aviser et critiquer.

Une législation aurait pour effet d'établir le droit pour les employés civils d'être représentés par des associations de leur choix, ainsi que les bases pour l'exercice de ce droit. Ainsi, les négociations prendraient une tournure différente. Le ministre chargé de négocier ne pourrait plus s'asseoir en disant « le Roy le veut » ou « le Roy s'avisera », et les représentants des employés cesseraient d'être des pétitionnaires. Les deux parties s'adonneraient donc à la négociation avec ce qu'elle comporte sur le plan tactique.

LA GRÈVE OU L'ARBITRAGE ?

Comment se règleront les divergences ? Par la grève ? Par l'arbitrage ?

Priver les employés civils du droit de grève, c'est leur conférer un statut civil inférieur à celui des autres employés. Cette injustice vaut-elle le risque que comporte la possibilité de grève ? Un gouvernement, tout comme certains employeurs. peut se montrer anti-syndical. Mais, même aux yeux des employés

civils la notion de grève cotnre un gouvernement répugne, quoique la reconnaissance de ce droit en Saskatchewan n'ait pas empêché cette province et son gouvernement de survivre.

L'arbitrage est une alternative au droit de faire la grève. Celui-ci devant lier les parties, il est nécessaire que les arbitres soient compétents et désintéressés. Certains diront: comment un gouvernement peut-il accepter d'aliéner son droit de disposer de l'argent des payeurs de taxes au bénéfice d'arbitres ? Pourtant les municipalités le font. De plus le Parlement peut passer une loi à cet effet. Enfin, la tradition chez les employés civils et l'expérience des arbitrages passés sont une garantie contre les décisions extravagantes ou exorbitantes. Il reste, comme dernière alternative, la conciliation par des personnes d'une haute compétence, d'un grand prestige et étrangères aux parties, ou un tribunal d'enquête lequel serait inévitablement de nature semblable à un arbitrage liant les parties.

Toutefois, quelle que soit la procédure établie pour la négociation et la solution des différends, les deux parties auront de la difficulté à se libérer des liens du passé et à traiter entre eux sur une base nouvelle, car le champ de négociation reste à déterminer. En Saskatchewan, certaines questions comme le système de classifiication, sont une prérogative de la Commission du service civil. Au Fédéral, les décisions devront être prises conformément au *Superannuation Act* et au *Civil Service Act.* On peut présumer, avec raison, que les employés civils n'accepteront pas longtemps que des questions habituellement discutées dans le secteur privé demeurent réglées par des lois et soient l'objet de décisions unilatérales, alors que des accords mutuels pourraient rendre inopérante la législation qui les aurait promulgués.

PROBLÈMES DE REPRÉSENTATION

Dasn plusieurs provinces. ainsi qu'au Fédéral, le droit de négocier soulèverait des problèmes pratiques de représentation, étant donné les affiliations différentes des groupements d'employés. En plus, au Fédéral des unions sont organisées sur les bases départementales, inter-départementales, intra-départementales ou de métiers; certaines sont à caractère professionnel, d'autres purement régionales. Et, comme l'accord se fera sur le plan national avec un contrat unique ou un nombre limité de contrats, il existe pour les organisations des employés civils un problème très aigu d'élimination des juridictions.

Le droit de négocier collectivement pour les employés civils intéresse aussi le grand public. Si c'est une bonne chose pour le bien commun de la population que les employés des grandes corporations exercent ce droit, il en est de même pour les employés des gouvernements. L'histoire nous enseigne que les gouvernements n'ont pas toujours été de bons employeurs, il ne faut pas le cacher. De même que la constitution canadienne impose des limites au Parlement et aux Législatures pour les empêcher de devenir des tyrans au lieu de rester les serviteurs du peuple, ainsi il serait désirable d'établir des règles qui rendraient le gouvernement, comme employeur, pas moins responsable que les autres employeurs.

Il ne faut pas oublier que certaines caractéristiques sont communes à tous les employeurs, quels qu'ils soient. Le désir très louable de diriger une entreprise avec succès associé à la faiblesse humaine conduit parfois à l'arbitraire et à l'oubli des valeurs humaines: ce que les unions préviennent dans le secteur privé. Pourquoi ne le feraient-elles pas dans le secteur public ?

Une convention collective apportera plus de satisfaction chez les employés civils. Par exemple, les augmentations de salaires ne seront plus le fait d'une pseudo-générosité du gouvernement, mais le fruit d'une entente. L'établissement de canaux pour le règlement des griefs contribuera inévitablement à augmenter le sens des responsabilités chez les deux parties. Dans de telles circonstances, la procédure de griefs devient une soupape de sûreté et un moyen de coopération entre la direction et l'association.

La question de la convention collective comporte plus d'envergure que ce qui a été brièvement décrit. Mais, il reste que dans notre société actuelle, le droit pour les employés de défendre leurs intérêts et d'améliorer leur sort est un fait reconnu. Nier ce droit aux employés civils constitue une lacune d'importance.