

*Public Service Employment Act*

Unfortunately, for public servants, the interpretation of Section 32 of this Act has been notoriously fickle. Until last year many public servants in the National Capital Region did in fact participate in elections, working for candidates and all three political Parties represented in this House. The Public Service Commission in most cases overlooked this activity. However, outside of Ottawa, it often tended to act more severely, limiting the rights of public servants.

Federal departments governed by this Act interpreted this Act in different ways, and other federal agencies, not subject to the Act, have varied from permitting almost complete political freedom to public servants in some agencies, to putting severe limits on others. What this means, Mr. Speaker, is that some public servants have been denied rights which other public servants of equal status have been granted, and that in all cases, public servants have had their rights defined not by Parliament, the guardian of our civil liberties. Rather, these rights have been deprived by the whim of unelected officials or regulatory agencies.

Had the Task Force on the Conflict of Interest had the opportunity to consider the Public Service Commission's interpretation of Section 32—referred to by the Hon. Member for Ottawa-Vanier in his remarks—I am convinced its members would not have said that the practical effect of Section 32 was to extend virtually full political rights to public servants. In fact, this interpretation had the practical effect of prohibiting public servants from working for political parties in any capacity. It prevented them from attending political conventions or from making public comments on public issues.

It prevented those Canadians who happen to be public servants from taking part in the simplest of tasks in connection with the last general election. The result was to force those who did decide to work for a candidate stuffing envelopes, typing letters or answering phone calls, to look over their shoulders for fear that big brother, watching from the safety of the Public Service Commission, would catch them.

The campaigns of all three of the political Parties in this House, particularly in the National Capital Region, were assisted by workers who defy this ruling. These same campaigns were harmed by the loss of many capable individuals who were forced out of the political process by fear of the Public Service Commission. I think we should be clear about this, Mr. Speaker. These were the results, not of the acts of this Parliament taking a clearly thought out and detailed decision on a fundamental issue of civil liberties, but rather the results of administrative fiat, which arose from the vagueness of an ill-defined law, a law which allows unelected officials to deprive a group of Canadians of their democratic rights.

The fickle interpretation of the Public Service Employment Act extended also to decisions as to who should be allowed to take a leave of absence to run for political office. I was a public servant who was fortunate enough to receive the permission of the Commission to run. However, other equally competent individuals who could have served all three Parties, and all Canadians in this House, have been deprived of the right even to seek the nomination of a political Party.

• (1730)

Section 32 of the Public Service Employment Act does not deal with the rights of public servants to comment on public issues in public. Limitations on freedom of expression for public servants have evolved largely through regulation by government agencies—not by legislation. The Public Service Staff Relations Board has set stringent limits on freedom of expression by public servants, banning criticisms of public policy.

It has done this even if it cannot be shown that such comments affect a public servant's effectiveness in the performance of his or her duties. The question has not become one of depriving people of their rights because it interferes with their public duties, but just depriving them of their rights.

However, we have a Charter of Rights today, enshrined in our Constitution, and this Charter guarantees everyone in Canada the freedoms of conscience, of thought, of belief, of opinion and expression. The Charter clearly says that these rights are subject only to "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." In my view, the current restrictions of Section 32 go too far to be reasonable. The law turns the basic rights of a large number of Canadians over to the whims of unelected officials. The interpretation and implementation of this law has resulted in unreasonable limitations on even the smallest and most innocuous of political activities by public servants.

If we believe that the Charter of Rights is more than just easy rhetoric, then it is clear that we cannot permit unelected administrators or regulatory agencies to define who has rights and who does not. If there are to be restrictions, the burden of denying a group of Canadians their basic rights must be borne by the elected representatives of the people, who can spell out these restrictions in detail, and after sober reflection. We must act on the principle that fundamental rights cannot be casually abrogated, least of all by officials who do not represent the public will. We must proceed on the basis that unless fundamental rights are specifically denied in law, they are retained. If we are to deny these fundamental rights, then we must specify in law what this means in practice, as other countries have done.

This is an issue which affects a large number of Canadians. Two hundred and twenty-two thousand Canadians are governed by the Public Service Employment Act, and there are more than three hundred and sixty thousand more who work in Crown agencies and the Canadian Forces, but are not governed by this Act. Of this additional number, many thousands are deprived of political rights by decisions of the agencies for which they work. The situation is getting worse, Mr. Speaker. The number of Canadians directly governed by the Public Service Commission, or its predecessor, the Civil Service Commission, and thus automatically denied their political rights, has grown by almost one hundred thousand in the last 25 years. Among the people denied these rights by the Public Service Employment Act are 90,000 women; this in a society which is just beginning to deal with the fact that women have been grossly under-represented in Canadian public life.